

## **New European organic regulation process Briefing for IFOAM EU members**

### **Introduction**

This briefing seeks to update IFOAM EU members about the ongoing reform of the organic regulation (EC) No 834/2007. Recently the European Parliament and Council adopted their opinion following the Commission's legislative proposal of 2014. Therefore, it is a good moment to assess in what direction the new regulation might go.

### **Political process**

In 2011, the EU Commission decided to review the organic regulation framework (Regulation (EC) No 834/2007). Following a mandatory impact assessment the Commission submitted a proposal for a new organic regulation to replace the current organic regulation (EC) No 834/2007 in March 2014. The legislative proposal was subject to the so called "co-decision" process. This means that both the Council of Ministers and European Parliament need to draft opinions to amend the Commission proposal. These opinions form the basis for further negotiation for the drafting of the final regulation, which then requires the formal approval of both chambers.

The EU Council discussed the legal proposal over three EU Council Presidencies and after more than one year reached a "general approach" in June 2015. This approach significantly amends the initial Commission proposal.

The EU Parliament started working after the May 2014 EU elections and on 13 October 2015 the EU Parliament's Committee on Agriculture adopted a report on the organic dossier which also foresees significantly amending the initial Commission proposal.

At this stage the three EU institutions decided to enter negotiations, so-called "trialogue". The institutions seek to reach an agreement and adopt a final text in the first half of 2016; with this in mind, the new regulation would enter into force in 2017 or 2018.

### **IFOAM EU perspective**

The initial Commission proposal for a new organic regulation was highly criticised by the whole organic sector, many EU and national institutions, and even the new Commissioner, Phil Hogan, admitted that the Commission proposal was not good. The Council's and Parliament's suggested changes to the initial proposal means that new regulation is very likely to resemble the current regulation in many areas, however the Parliament also proposed a number of new elements. This backs the IFOAM EU proposal that there was no need for a new regulation, but that the current regulation should be improved instead.

During the process, IFOAM EU and its members have been in continuous contact with EU and national institutions both face-to-face and in correspondence. Press releases and media activities helped gather momentum. Last, but certainly not least, we brought together the sector to define

what would help the organic develop both in terms of practices and economic expansion and presented this to policy-makers. Along the way we have been asked to provide technical opinions too.

Now, the majority of the elements in the Commission's proposal that could have caused significant problems have been neutralised and the ingredients needed to reach an acceptable final text are present. Of course, the work continues as the EU institutions enter the final phase of negotiations.

Please find the most important areas where changes might occur in the future EU organic regulation, as well as the positions of the three EU institutions and IFOAM EU on each area.

## How the new regulation could change things

### A specific decertification threshold for pesticide residues in organic products?

The Commission proposed creating a specific threshold for not allowed substances in organic products above which organic products would be automatically decertified. This requirement would have turned the polluter pays principle up-side-down. 95% of agriculture in Europe is not organic agriculture and, although contamination is very rare, in some cases organic farmers can do nothing to prevent it.

Thanks to EU Council and EU Parliament, who support in major part IFOAM EU rejection of such a thresholds, it is most likely this will be deleted and replaced by a requirement to improve and harmonise precautionary and investigative measures. This approach would only sanction operators in case of misconduct and who have not established required protection measures. .

However, both institutions ask the Commission for a report on residues in organic products in 2020. So the issue might be re-discussed again in 5 years.

**Likely impact:** Cases of residue findings in organic products will be investigated in a more harmonised way and innocent organic farmers will not be sanctioned for something beyond their control.

**IFOAM EU position:** Throughout the process IFOAM EU has been advocating to keep the process-based approach to organic and to prevent specific pesticide thresholds that would undermine it, as well as the polluter pays principle.

### Control system back in the organic regulation, control frequency and scope

Improved, clearer and more harmonised requirements for controlling organic operators will be kept in the organic regulation. This is contrary to the initial proposal of the Commission to regulate all control requirements in the horizontal food and feed control legislation. As general rule, every organic operator will be inspected at least once a year by a certification body. The Council proposed making an exception for low risk operators with a good record possible.

Contrary to the Commission proposal that would have set an obligation for all retailers to be certified, both the Council and Parliament have suggested that retailers exclusively selling packaged organic food will be exempt from certification. Group certification will be allowed also in the EU, the size and turnover of farmers who will be permitted to join a certified group is still under discussion. The Parliament also proposes creating new structures to improve the implementation of the regulation and coordination of member states at EU level.

**Impact:** The control system requirement will stay in the organic regulation. With improved and new control requirements, controls will be more efficient and if mandatory annual inspection is maintained consumer confidence will be kept. Administrative burden will be avoided and costs reduced for low-risk operators as retailers only selling pre-packaged organic food.

**IFOAM EU position:** Since 2012, IFOAM EU has advocated improving the current organic control system by clarifying some requirements, keeping the annual inspection concept and increasing the exchange of information between actors.

IFOAM EU succeeded in preventing the Commission from moving the control system requirements from the organic regulation to horizontal food safety legislation.

Finally IFOAM EU welcomes the Parliament proposal to create new structure to improve the implementation of the regulation.

### Import regime based on EU standards

Basically the three institutions agree that organic products can be imported exclusively from (1) third countries with which EU has a “trade agreement” (e.g. USA, Canada, Japan) and (2) - for countries with which the EU does not have a “trade agreement” is not present - only from producers who fully comply with the EU standards.

**Impact:** If this approach is confirmed, it is very likely that many small organic producers in developing countries will not be able to meet the requirements which are designed for the EU context, due to different socio-economic and geographical conditions. Also the administrative burden and costs to obtain two certifications –their own and EU – might be a problem.

A shortage of imports and decrease in organic farming in third countries could be consequences.

**IFOAM EU position:** The innovative proposal from the Parliament’s rapporteur to improve the current system and keep equivalency, supported by IFOAM EU, was unfortunately not adopted by the Parliament. IFOAM EU will continue advocating to make the strict proposal coming from the three EU institutions more flexible.

### Scope of the regulation

The scope will probably be clearer and more consistent. New categories of products might be certified and bear the EU organic logo such as sea salt, raw cotton, raw wool, raw hides and skins, beeswax. It is still not clear whether the mass catering operations (restaurants, canteens, etc.) will be included in the scope of this regulation.

**Impact:** Greater clarity on which products can be certified (today there are different interpretations for certain products) and there will be more incentives to produce and more marketing opportunities for low-income agricultural products such as wool.

**IFOAM EU position:** Regarding raw cotton, wool, hides and beeswax IFOAM EU pushed for inclusion under the organic regulation scope.

There were long debates on the inclusion of sea salt in the scope, and IFOAM EU was against including it, because salt production is not connected to agriculture or aquaculture in any way and it can open the door to other mineral substances.

### Exceptional production rules and mixed farms

It will still be possible to have the flexibility on production rules needed to make organic production in all the different regions of the EU possible. Farms producing both conventional and organic products will probably be allowed to continue as today, that is, provided the organic and conventional products are different.

**Impact:** The very risky Commission proposal to have a strict harmonisation of rules throughout the EU and to delete any kind of flexibility without considering the different socio-economic and geographical conditions will be neutralised. New and positive approaches for developing organic have been included in the Parliament position, e.g. by creating databases to increase the availability of organic seed and of organic aquaculture animals.

The Parliament is also proposing a definition for “organic breeding” which is in line with the IFOAM position.

**IFOAM EU position:** IFOAM EU has continually pushed against the strict harmonisation proposed by the Commission. Member states with a less developed organic sector and marginal areas should be given time to adapt, even though the current regulation does not provide practical tools for development in some areas. IFOAM EU proposals for databases for seed and aquaculture animals were adopted by the Parliament and are now under discussion. The Council’s and Parliament’s positions on mixed farms are in line with the IFOAM EU position.

### “Regional” feed

The questions of how much feed should originate from the same region of the livestock farms and the related definition of “region” different approaches are being discussed. The Commission proposes high percentages (60% for non-herbivores and 90% for herbivores) of “regional” feed without defining what “region” means; the Council prefers not to take a position at the moment; and the Parliament proposes today’s percentages (20% for non-herbivores and 60% for herbivores) and a limit of 150 km radius from the livestock farms.

**Impact:** The final outcome is not predictable but the impact will depend on whether a proper definition of “region” is found. Without any definition, the current situation with differing national interpretations will continue and create unfair competition within the EU.

**IFOAM EU position:** As the definition of a region is complex and has far reaching implications, IFOAM EU experts are working to provide a solution that takes the situation of all regions into account, including the outermost ones.

### Environmental performance

The final outcome is difficult to predict as the position of the three EU institutions differs.

The Commission proposed obliging processors to set up environmental management systems; the Council decided to delete the entire requirement and the Parliament proposed a general text on the need to improve processors’ environmental performance. The final outcome might be a requirement for organic processors to measure and improve their environmental impact regarding use of energy, use of water, waste management, etc.

**Impact:** The impact will depend greatly on how this is implemented. If bureaucracy and administrative burden are prevented, it could increase consumer confidence. On the other hand, if the implementation requires additional certifications or greatly increases paperwork, it could dissuade processors and traders from converting to organic.

**IFOAM EU position:** Since 2011 IFOAM EU has asked and advocated for such a requirement for processors and traders. However according to the IFOAM EU position small operators should be exempt and the requirement should not create administrative burden or require further certifications.