

REVIEW OF REGULATION N. 834/2007 ON ORGANIC FARMING

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KEY POINTS

The **review of the Regulation 834/2007** on organic farming is currently underway and the European Commission is writing the proposal for the new Regulation (presentation scheduled for **February/March 2014**). According to the findings of the consultation process, the Commission has shown its propensity for the **approach** aimed at refocusing organic farming on its basic **principles, enhancing the standard and eliminating any type of flexibility** (*Principle-driven option*). On the other hand, the main **stakeholders** are **opposed** to a deep change in the legislation, believing that it may **destabilize the market**. However, they are in favour of a **moderate revision**, aimed at improving its functioning and application. Nevertheless, they identify some valid proposals also in the other two options.



TIMETABLE

UNTIL NOW

Between June and July 2013 the official stakeholders' consultation took place. The European Commission has presented and submitted to the stakeholders three possible options of political guidelines for the new regulation. In addition, the Commission has carried out an impact assessment study for all the proposed options.

NEXT STEPS

- **From September to December 2013:** the Commission is drafting the regulation proposal for organic farming.
- **February/March 2014:** the Commission will present the regulation proposal.

ATTENTION: At this stage it is no longer possible to influence the drafting process of regulation. Nevertheless, it's important to clarify the position of AREPO member regions to build a common position, to be able to intervene effectively in the phase of discussion in the European Parliament.

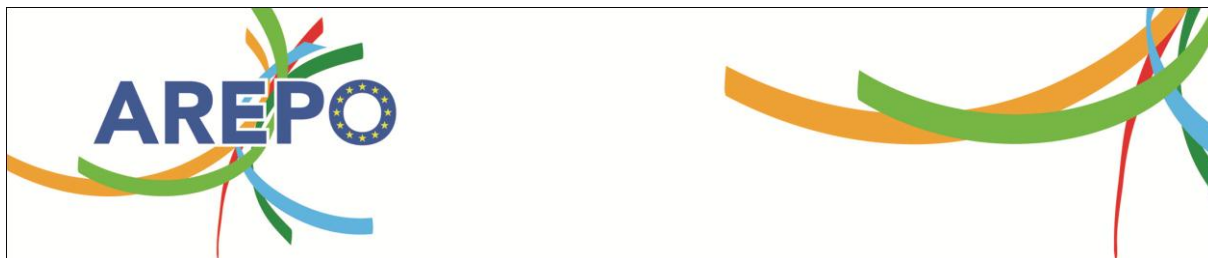
BACKGROUND

The review process of the European legislation on organic farming is the result of two parallel elements:

1) the **review** of **Regulation 834/2007** on organic farming, as required by the regulation itself (Article 41), in order to develop the existing legislation to dynamically respond to the sector evolution, in the light of the experience acquired through the implementation.

2) the need to address the problem of **controls**, raised by several cases of frauds in the organic sector and highlighted by the Special Report of the European Court of Auditors on the control system governing the production, processing, distribution and imports of organic products¹.

¹ Special Report n.9/2012 – Audit of the control system governing the production, processing, distribution and imports of organic products.



Initially, these two elements were considered in conjunction within the review of Regulation 834. Nevertheless, after the presentation of **legal framework on food safety** by DG SANCO (06/05/2013), it has become clear that the control will be regulated separately, within the framework legislation aimed at harmonizing the system of official controls².

Below we will analyze in particular the review of Regulation 834/2007.

REVIEW OF REGULATION 834/2007

In May 2012 the European Commission has submitted to the European Parliament and the Council the report³ on organic production and labelling of organic products, aimed at evaluating

- 1) the scope of the Regulation itself,
- 2) the prohibition on the use of GMOs and connected rules
- 3) and the functioning of the internal market and controls system.

Following this initial assessment, the Commission has included in the work programme for 2013 the adoption of a proposal reviewing the organic political and legal framework, Council Regulation (EC) No. 834/2007 and European Action Plan for Organic Food and Farming of 2004⁴. To achieve this goal, it has started various consultations with experts and stakeholders, with MS, as well as a public consultation through an online questionnaire (from 15 of January to of 10 April 2013).

The debate between the Commission and the stakeholders has been carried out within the **Advisory Group on Organic Farming**.

The Commissioner, **Dacian Cioloș**, introduced the Advisory Group meeting of April 11th⁵, emphasizing the importance and relevance of the organic sector for the European Union. On that occasion, the Commission presented an analysis of the state of play of the consideration for the review of the EU organic farming policy, which outlined an evaluation of the current legislative framework, the definition of the problem and the objective of policy review.⁶

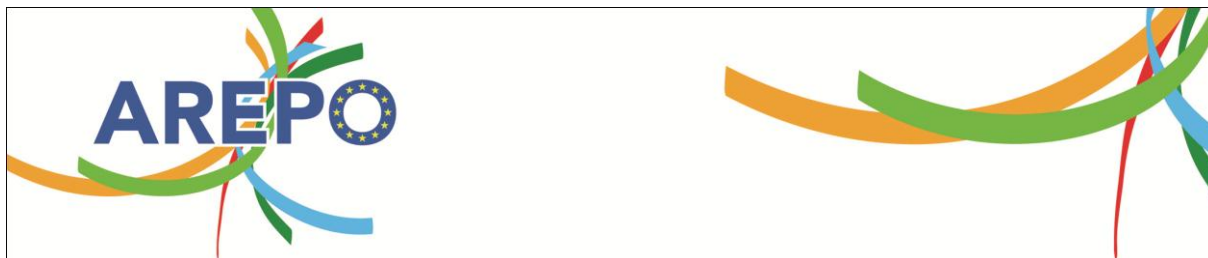
² COM(2013)265

³ COM(2012)212.

⁴ COM(2004)415.

⁵ http://europa.eu/rapid/press-release_SPEECH-13-302_en.htm

⁶ European Commission (2013), Organic Farming Policy Review – Part 1: Issue Paper, Advisory Group on Organic Farming (meeting 11 April 2013), Consultation Document.



With regard to the **objectives**, the policy for organic farming is in line with the Europe 2020 strategy, as an integral part of the CAP. The following specific objectives have been identified:

- 1) providing the basis for a sustainable development of organic farming;
- 2) ensuring fair competition and a proper functioning of the internal market for organic products, while maintaining enough profitability for producers;
- 3) maintaining and justifying consumer confidence in products labelled as organic.

The paper brings out the following **problems** with regard to present regulation:

- 1) **Regulatory failures:** some aspects of the standard are not defined clearly enough and give room for too much flexibility, the basic regulation is very complex and in some cases confusing. This implies the need to define more clearly the scope of the legislation and to regulate flexibility, especially in the following areas:
 - a. Exceptional rules allowing the use of non-organic inputs require more transparency about the availability of the inputs in their organic form.
 - b. Authorisation of substances and techniques in organic farming involves a decision-making process too complex to respond to the new dynamic of the sector. There is a need for high level technical advice, independent and transparent.
 - c. Lack of harmonisation in the interpretation of residues analysis.
 - d. GMOs: Council Regulation 834/2007 forbids the use of GMOs, but it does not establish specific rules for labeling. For this reason, horizontal legislation applies here (Reg. 1829/2003). That regulation lays down a general labelling threshold of 0,9%⁷ for adventitious or technically unavoidable presence of authorised GMOs. Furthermore, the Regulation does not determine the responsibility for the costs of analysis and of a possible declassification of the product due to EU-authorized GMO presence above the 0,9%, when organic products grown in an environment where GMOs are cultivated.

⁷ Reg. (CE) No. 1829/2003.



- 2) **Failures in the implementation of the regulation as to consumer confidence:** the division of responsibilities between the European Commission, MS authorities, control bodies and operators is not adequate. Effectively, this process gives rise to different readings and interpretation of the organic legislation, as well as to different definitions and applications of sanctions. In addition, the administrative burden of implementing import rules is too heavy to handle.
- 3) **Market failures:** in the EU the demand exceeds the organic production, which does not respond to consumers expectations (in particular for fruits, vegetables and crop products, notably protein-rich crops for feed). In addition, the internal market is characterised by an unequal development in the different MS as sales are mostly concentrated in Germany (30%), France (20%), UK (9%) and Italy (8%). Furthermore, the regulation does not contain provision relating to mass catering and non-food organic products like textiles and cosmetics. The development of organic products outside the scope of regulation could lead to unfair competition and negatively impact on consumers confidence in organic products. On the other hand, the stakeholders highlighted that a EU legislation in this field could have a significant positive influence for the development of organic sector.
- 4) **Information failures:** lack of statistical data on organic sector and insufficient recognition of the EU logo. Lack of transparency of information regarding the geographical origin of organic products.



ANALYSIS OF COMMISSION POLITICAL OPTIONS

Based on this analysis, the Commission presented at the meeting of the Advisory Group a range of **three options** for the review of the legislative framework on organic farming. Although they are based on different approaches, all the options share a set of fixed points aimed at simplifying and clarifying the legal framework, ensuring greater transparency and where possible reducing the administrative burden. Furthermore, special attention will be given to small producers.

IMPORTANT: The Advisory Group meetings showed a greater propensity of the Commission towards the third option (*Principle driven option*); on the other hand, the major stakeholder of the sector, IFOAM and COPA-COGECA, support the first option, to ensure greater stability to organic sector and market. Nevertheless, they identify other valid proposals among the measures of the other two options.

I. IMPROVED STATUS QUO

The first option aims at **improving the status quo** and has the following objectives:

1. Better enforcement of the existing legislation,
2. Clarification of some provisions and
3. Improved articulation with EU horizontal legislation.

Instruments and measures:

- 1) In this option the Commission proposes a draft **Regulation of the European Parliament and the Council** to replace Council Regulation (EC) No 834/2007:
 - to **clarify** and to marginally **extend** the **scope** of the legislation;
 - to **clarify provisions** of the standard to avoid ambiguities;
 - to slightly amend the **labelling rules**, notably by removing the indication of place of farming when it can cause confusion with the origin labelling under other legislation and by expanding the limit of 2% for ingredients of agriculture origin not coming from the mentioned area to 5% for the "EU" or "non-EU" indication;



- to streamline the articulation with the general rules for the accreditation of private control bodies;
- to remove the possibility of recognition of control bodies for the purpose of **compliance** (Article 32).

Furthermore, in addition to the new regulation, this option provides for

- 2) **measures to reinforce coherence and synergies with horizontal legislation**, in particular on traceability and market controls (Reg. (CE) No 882/2004) and to increase coordination of the different authorities in charge of market surveillance within the MS (Reg. (CE) No 756/2008).
- 3) Review of the process for the technical examination of the introduction of new substances and practices in organic farming.
- 4) Introduction of a system of electronic certification integrated in an EU web-based database with adequate implementig provisions.

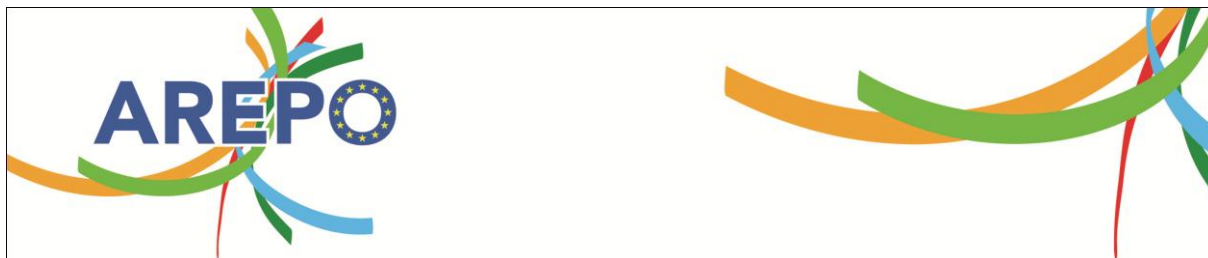
Since this option is based on improvements and better enforcement of the current legislation, it is considered as a minimum to address the identified issues; therefore the proposed mesasures are also included under the other options.

II. MARKET-DRIVEN OPTION

The **market-driven option** aims at providing the conditions to respond dynamically to further market developments by supporting organic production. The logic at the base of this option is that a less rigorous standard would allow producers to take advantage of the exceptions to continue to produce organically and, at the same time, would give the opportunity to newcomers to join the sector.

Instruments and Measures:

- 1) In this option the Commission proposes a draft **Regulation of the European Parliament and the Council** to replace Council Regulation (EC) No 834/2007:
 - to integrate current long-lasting exceptional rules granted by MS as provisions in the EU Regulation;



- to introduce a specific threshold for non-allowed substances under which the product cannot keep its organic status;
- to simplify the indication of the place of farming on the label;
- to introduce more result/product-oriented controls;
- to amend the import regime, notably by considering a mutual approach in the equivalence arrangements with third countries and by replacing equivalence for control bodies by compliance;
- the authorisation of new substances and the possibility to use non-organic ingredients in organic processed products would be self-regulated by the sector;
- measures presented in option 1.

Furthermore, in addition to the new regulation, the Commission proposes:

- 2) A **Commission Communication on a strategy for organic farming (Action Plan)**, putting forward recommendations and an appropriate coordination with EU policies and MS in order for the organic sector to develop as required by the market. It would include recommendations to MS on targets for market development, accompanying measures to improve and increase controls on final products, and information and promotion actions aiming at supporting conversion to organic farming.
- 3) Measures to reinforce control system.

III. PRINCIPLE-DRIVEN OPTION

The **principle-driven option** aims at re-focussing organic production on its principles. For this reason it aims at strengthening the standard by removing any flexibility, considering that it had been introduced to make easier the conversion of holdings when the organic sector was embryonic, but that it is not justified any more in the light of the development of the sector.

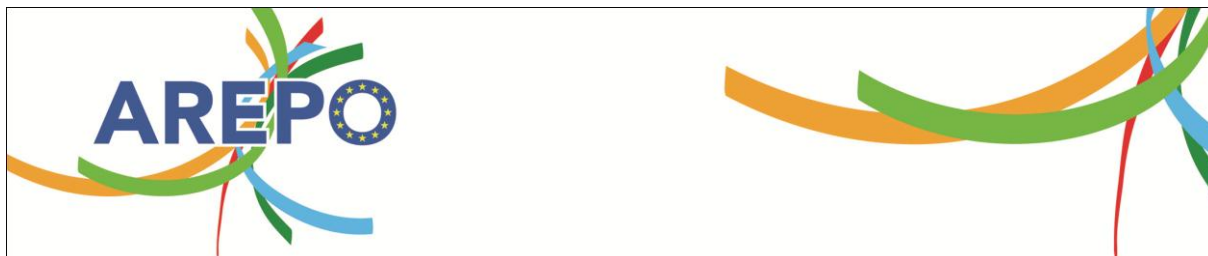


Instruments and Measures:

- 1) In this option too the Commission proposes a draft **Regulation of the European Parliament and the Council** to replace Council Regulation (EC) No 834/2007:
 - to remove all exceptional rules from the organic production standard, except where temporary measures are necessary in order to allow organic production to continue or recommence in the case of catastrophic circumstances;
 - to oblige organic holdings to be entirely managed in compliance with the requirements applicable to organic production;
 - to put an end to the retrospective acknowledgement of conversion;
 - to end the use of non-organic ingredients in processed products at EU and MS level;
 - to phase out the use of national logos;
 - to amend the import regime notably by considering a mutual approach in the equivalence arrangements with third countries and by replacing equivalence for control bodies by compliance;
 - measures presented in option 1.

Furthermore, in addition to the new regulation, the Commission proposes:

- 2) The adoption of a **Commission Communication strategy for organic farming (Action Plan)**, including appropriate instruments to increase information on the sector in the EU (market, production, added value, trade) and developing a specific export policy for organic products.
- 3) In this case controls would remain process-oriented and the use of risk analysis would be reinforced through the adoption of a delegated act.



IFOAM POSITION⁸

IFOAM highlights the need to consolidate the progress to date and to enable a coordinated and coherent response to the current demands of an expanding organic sector; furthermore it recognises that the potential of current legislation is not fully exploited.

Nevertheless, the **current regulation** represents a **solid legislative framework**, that has allowed the growth of organic sector, even in time of financial crisis. For this reason, the regulation represents a **value** in itself and should be recognised, along with the risk represented in term of **uncertainty** by a profound **change** in the legislative framework in the short term.

This is why IFOAM think that the **priority should be given to the review of implementing rules** to respond to organic sector needs: firstly, these measures reduced the magnitude of legislation; secondly, in these areas progress can be made in a relatively short time frame, since they are not subject to the complex requirements of changing Council regulations.

With regard to Commission proposals, IFOAM **criticises the division between a quality and quantity** option: although the organic production process is considered within the quality system, this is not in contradiction with the aim of organic sector to grow significantly. There is the need to strike a balance between high quality and continuing growth.

IFOAM is in line with the first option (status quo improvement), but at the same time recognises the value of measures contained in the other two. In fact, it proposes a focused improvement of current legislation, including the elements of each proposal that are consistent and that could have the potential to strengthen the quality based approach in organic sector. IFOAM stresses in particular that quality in organic products lies in the production process (process approach) and recommends to increase the efficiency of controls following this approach rather than an *end-product approach*.

Another IFOAM priority is the management of the **heterogeneity and diversity within EU MS**, determined by climate, structure and level of development of the organic food and farming sector in each MS. In this regard, it is considered necessary to maintain a certain flexibility, the terms of which must be defined in a transparent manner and must go in two directions: ie, they must allow

⁸ For further information on IFOAM position and recommendations: IFOAM (2013), IFOAM EU Dossier on the Review of the Legal and Political Framework for Organic Farming, Updated version – 02 May 2013.



temporary exemption to the legislation, but also the adoption of more stringent and ambitious standards and principles.

IFOAM believes that in the case of the third option (*Principle driven*), the total elimination of the derogations would not allow the transition to a more organic agricultural sector, on the contrary, it may block the development of organic sector. Since the Commission seems to prefer this option, IFOAM is trying to identify the most important derogations to present amendments once the regulation comes to the European Parliament. The total elimination of exceptions would be extremely detrimental to the sector, which continues to be in the need of transitional rules (especially in the case of seeds and young animals).

Finally, in order to allow the growth and development of the organic sector and to take advantage of social benefits of this sector, IFOAM highlight the need to create a new Action Plan with clear objectives in line with the reform of the CAP, with Horizon 2020 and with the European Innovation Policy.