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

REGULATION (EU) 2018/848 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Having regard to the opinion of the Committee of the Regions[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) Organic production is an overall system of farm management and food production that combines best environmental and climate action practices, a high level of biodiversity, the preservation of natural resources and the application of high animal welfare standards and high production standards in line with the demand of a growing number of consumers for products produced using natural substances and processes. Organic production thus plays a dual societal role, where, on the one hand, it provides for a specific market responding to consumer demand for organic products and, on the other hand, it delivers publicly available goods that contribute to the protection of the environment and animal welfare, as well as to rural development.

(2) The observance of high standards for health, the environment and animal welfare in the production of organic products is intrinsic to the high quality of those products. As underlined in the communication of the Commission of 28 May 2009 on agricultural product quality policy, organic production forms part of the Union's agricultural product quality schemes, together with geographical indications and traditional specialities guaranteed in accordance with Regulation (EU) No 1151/2012 of the European Parliament and of the Council[(4)] and products of the outermost regions of the Union in accordance with Regulation (EU) No 228/2013 of the European Parliament and of the Council[(5)]. In this sense, organic production pursues the same objectives within the common agricultural policy ('CAP'), which are inherent to all the agricultural product quality schemes of the Union.

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(3) In particular, the objectives of the organic production policy are embedded in the objectives of the CAP by ensuring that farmers receive a fair return for complying with the organic production rules. In addition, the growing consumer demand for organic products creates conditions for further development and expansion of the market in those products and thus for an increase in the return of farmers engaged in organic production.

(4) Furthermore, organic production is a system that contributes to the integration of environmental protection requirements into the CAP and that promotes sustainable agricultural production. This is why measures that support organic production financially have been introduced under the CAP, notably under Regulation (EU) No 1307/2013 of the European Parliament and of the Council[(6)], and strengthened, in particular, in the reform of the legal framework for rural development policy established by Regulation (EU) No 1305/2013 of the European Parliament and of the Council[(7)].

(5) Organic production also contributes to the achievement of the objectives of the Union's environmental policy, in particular those set out in the communications of the Commission of 22 September 2006 entitled 'Thematic Strategy for Soil Protection', of 3 May 2011 entitled 'Our life insurance, our natural capital: an EU biodiversity strategy to 2020' and of 6 May 2013 entitled 'Green Infrastructure (GI) — Enhancing Europe's Natural Capital', and in environmental legislation such as Directives 2000/60/EC[(8)], 2001/81/EC[(9)], 2009/128/EC[(10)] and 2009/147/EC[(11)] of the European Parliament and of the Council and Council Directives 91/676/EEC[(12)] and 92/43/EEC[(13)].

(6) In view of the objectives of the Union's organic production policy, the legal framework established for implementing that policy should aim at ensuring fair competition and the proper functioning of the internal market in organic products, at maintaining and justifying consumer confidence in products labelled as organic, and at providing conditions under which the policy can progress in line with production and market developments.

(7) The policy priorities of the Europe 2020 strategy, set out in the communication of the Commission of 3 March 2010 entitled 'Europe 2020: A strategy for smart, sustainable and inclusive growth', include achieving a competitive economy based on knowledge and innovation, fostering a high-employment economy delivering social and territorial cohesion, and supporting the shift towards a resource-efficient and low-carbon economy. The organic production policy should therefore provide operators with the right tools to better identify and promote their products while protecting them against unfair practices.

(8) The organic farming sector in the Union has developed rapidly in the past years, in terms not only of the area used for organic farming but also of the number of holdings and the overall number of organic operators registered in the Union.

(9) Given the dynamic evolution of the organic sector, Council Regulation (EC) No 834/2007[(14)] identified the need for a future review of the Union rules on organic production, taking into account the experience gained from the application of those rules. The results of that review carried out by the Commission show that the Union

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legal framework governing organic production should be improved to provide for rules that correspond to the high expectations of consumers and that guarantee sufficient clarity for those to whom they are addressed. Regulation (EC) No 834/2007 should be therefore repealed and replaced by a new Regulation.

(10) Experience gained so far with the application of Regulation (EC) No 834/2007 shows the need to make clear to which products this Regulation applies. Primarily, it should cover products originating from agriculture, including aquaculture and beekeeping, as listed in Annex I to the Treaty on the Functioning of the European Union (TFEU). Moreover, it should cover processed agricultural products for use as food or feed because the placing of such products on the market as organic products provides a major outlet for agricultural products and ensures that the organic nature of the agricultural products from which they are processed is visible to the consumer. Likewise, this Regulation should cover certain other products which are linked to agricultural products in a similarly close way as processed agricultural products for use as food and feed because those other products either constitute a major outlet for agricultural products or form an integral part of the production process. Finally, sea salt and other salts used for food and feed should be included in the scope of this Regulation because they may be produced by applying natural production techniques, and because their production contributes to the development of rural areas, and thus falls within the objectives of this Regulation. For reasons of clarity, such other products not listed in Annex I to the TFEU should be listed in an Annex to this Regulation.

(11) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[(15)]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(12) In order to take into account new production methods, new materials or international commitments, the power to adopt certain acts should be delegated to the Commission in respect of enlarging the list of other products closely linked to agriculture falling within the scope of this Regulation.

(13) Products covered by this Regulation but originating from hunting or fishing of wild animals should not be considered organic since their production process cannot be fully controlled.

(14) Because of the local nature of mass catering operations, measures taken by Member States and private schemes in this area are considered adequate to ensure the functioning of the single market. Therefore, food prepared by mass caterers on their premises should not be subject to this Regulation and should therefore not be labelled or advertised with the organic production logo of the European Union.

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(15) Research projects have demonstrated that consumer confidence is crucial in the market for organic food. In the long run, rules that are not trustworthy can jeopardise public confidence and lead to market failure. Therefore, the sustainable development of organic production in the Union should be based on sound production rules which are harmonised at Union level and which meet operators' and consumers' expectations regarding the quality of organic products and compliance with the principles and rules laid down in this Regulation.

(16) This Regulation should apply without prejudice to related legislation, in particular in the fields of safety of the food chain, animal health and welfare, plant health, plant reproductive material, labelling and the environment.

(17) This Regulation should provide the basis for the sustainable development of organic production and its positive effects on the environment, while ensuring the effective functioning of the internal market in organic products and fair competition, thereby helping farmers to achieve a fair income, ensuring consumer confidence, protecting consumer interest and encouraging short distribution channels and local production. Those objectives should be achieved through compliance with general and specific principles and general and detailed production rules applicable to organic production.

(18) Having regard to the particularities of the organic production systems, the choice of plant varieties should focus on agronomic performance, genetic diversity, disease resistance, longevity, and adaptation to diverse local soil and climate conditions, and should respect the natural crossing barriers.

(19) The risk of non-compliance with organic production rules is considered higher in agricultural holdings which include units that are not managed under those rules. Therefore, after an appropriate conversion period, all agricultural holdings in the Union which aim to become organic should be entirely managed in compliance with the requirements applicable to organic production. However, holdings including both units managed under organic production rules and units managed under non-organic production rules should be allowed under certain conditions, including in particular the condition of clear and effective separation between organic, in-conversion and non-organic production units and between the products produced by those units.

(20) Since the use of external inputs should be restricted in organic production, certain objectives should be identified for which products and substances are often used in the production of agricultural products or processed agricultural products. When normally used for those objectives, the use of products or substances should only be allowed when they have been authorised in accordance with this Regulation. However, such authorisation should only be valid as long as the use of such external inputs in non-organic production is not prohibited by Union law or by national law that is based on Union law. The use of products or substances which plant protection products contain or consist of, other than active substances, should be allowed in organic production as long as their use is authorised in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council[16] and as long as neither the placing of those plant protection products on the market nor use of those plant protection products is prohibited by Member States in accordance with that Regulation.

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(21) When the entire holding or parts of the holding are intended to produce organic products, they should be subject to a conversion period during which they are managed under organic production rules, but cannot produce organic products. Products should only be allowed to be placed on the market as organic products once the conversion period has elapsed. That period should not start before the farmer or operator producing algae or aquaculture animals has notified that conversion to organic production to the competent authorities of the Member State where the holding is situated, and is therefore subject to the control system that is to be set up by Member States in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council[17] and this Regulation. Competent authorities should only be able retroactively to recognise periods before the date of notification as conversion periods where the holding or the relevant parts thereof have been subject to agri-environmental measures supported by Union funds or are natural or agricultural areas which for a period of at least three years have not been treated with products or substances not authorised for use in organic production.

(22) In order to ensure quality, traceability, compliance with this Regulation as regards organic production and adaptation to technical developments, the power to adopt certain acts should be delegated to the Commission in respect of further rules on the splitting of holdings into organic, in-conversion and non-organic production units.

(23) The use of ionising radiation, animal cloning and artificially induced polyploid animals or genetically modified organisms ('GMOs'), as well as products produced from or by GMOs, is incompatible with the concept of organic production and consumers' perception of organic products. Such use should therefore be prohibited in organic production.

(24) In order to support and facilitate compliance with this Regulation, operators should take preventive measures at every stage of production, preparation and distribution, where appropriate, to ensure the preservation of biodiversity and soil quality, to prevent and control pests and diseases and to avoid negative effects on the environment, animal health and plant health. They should also take, where appropriate, proportionate precautionary measures which are under their control to avoid contamination with products or substances that are not authorised for use in organic production in accordance with this Regulation and to avoid commingling organic, in-conversion and non-organic products.

(25) Products produced during the conversion period should not be placed on the market as organic products. To avoid the risk of confusing and misleading consumers, those products also should not be marketed as in-conversion products, except in the cases of plant reproductive material, food products of plant origin and feed products of plant origin that have only one agricultural crop ingredient, in all cases subject to the condition that a conversion period of at least 12 months before the harvest has been complied with.

(26) In order to ensure quality, traceability, compliance with this Regulation and adaptation to technical developments, the power to adopt certain acts should be delegated to the Commission in respect of conversion rules for further animal species.