COMMISSION REGULATION (EC) No 1452/2003

of 14 August 2003

maintaining the derogation provided for in Article 6(3)(a) of Council Regulation (EEC) No 2092/91 with regard to certain species of seed and vegetative propagating material and laying down procedural rules and criteria relating to that derogation

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs [1], as last amended by Commission Regulation (EC) No 599/2003 [2], and in particular the second and third indent of point (b) of Article 6(3) thereof,

Whereas:

(1) Article 6(3) of Regulation (EEC) No 2092/91 provides for a derogation by which Member States may authorise, during a transitional period expiring on 31 December 2003, the use in organic production of seed and vegetative propagating material not produced by the organic production method, where the producers are unable to obtain propagating material from the organic production method.

(2) Community legislation of relevance for seed and vegetative propagating material is also applicable according to Article 3 of Regulation (EEC) No 2092/91.

(3) Maintaining biodiversity is an important principle of organic farming and it should therefore be ensured that farmers have a big range of cultivars and varieties to choose among, including local cultivars and varieties.

(4) It is clear that for certain species grown within the Community, there will not be adequate amounts of organically produced seed and vegetative propagating material available after 31 December 2003.

(5) It is therefore necessary to maintain the possibility to use seed and vegetative propagating material not obtained by the organic production method if it is not possible to obtain seed or vegetative propagating material produced by the organic production method.

(6) For the species for which there will be adequate amounts of organically produced seed or vegetative propagating material of a significant number of varieties available it should not be possible to use seed or vegetative propagating material not obtained by the organic production method. Accordingly, a list of the species excluded from the scope of the derogation should be established.

(7) The application of the derogation with regard to vegetative propagating material, other than seed potatoes, should fall under the discretion of the Member States, until appropriate criteria can be adopted at Community level.

(8) It is important to make the supply and demand for seed and vegetative propagating material produced by the organic production method more transparent in order to stimulate increased production and use of seed and vegetative propagating material produced by this method.

(9) Each Member State should therefore ensure that a database, in which seed and seed potatoes produced by the organic production method and respecting the general criteria for production of seed and vegetative propagating material can be registered, is established and is made available to the users. In this context, and in order to facilitate access to information, it is appropriate to develop a harmonised model for the registration form to be used by the supplier of seed for the registration of seed and seed potatoes in the databases.

(10) Each Member State should ensure the publication of a report on their granting of authorisations, for the information of all stakeholders, Member States and the Commission.

(11) The system should be re-examined thoroughly after the first two years of experience in order to assess to what extent organically produced seed and vegetative propagating material have been used by the farmers. In this context the Commission should consider the opportunity of developing a database at Community level.

(12) The measures provided for in this Regulation are in accordance with the opinion of the Committee set up in accordance with Article 14 of Regulation (EEC) No 2092/91,

[1] OJ L 198, 22.7.1991, p. 1.
[2] OJ L 85, 2.4.2003, p. 15.

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL RULES

Article 1

Maintenance of the derogation

1. The derogation provided for in Article 6(3)(a) of Regulation (EEC) No 2092/91, according to which Member States may authorise the use of seed or vegetative propagating material not obtained by the organic production method, subject to the conditions set out in that Article, is maintained after 31 December 2003 as regards species not listed in the Annex to this Regulation.

For the application of the derogation concerning seed or seed potatoes referred to in the first subparagraph, procedural rules and criteria are set out in Articles 3 to 14.

2. Species for which it is established, in accordance with the procedure laid down in Article 14 of Regulation (EEC) No 2092/91, that organically produced seed or seed potatoes are available in sufficient quantities and for a significant number of varieties in all parts of the Community are set out in the Annex to this Regulation.

The species listed in the Annex are not entitled to authorisations pursuant to the derogation referred to in paragraph 1 unless it is justified by one of the purposes referred to in Article 5(1)(d).

Article 2

Definitions

For the purpose of this Regulation:

(a) the definitions in Regulation (EEC) No 2092/91 shall apply;

(b) 'supplier' means an operator who markets seed or seed potatoes to other operators.

CHAPTER II

APPLICATION OF THE DEROGATION

Article 3

Use of seed or seed potatoes not obtained by the organic production method

Member States may, pursuant to the procedure set out in Article 5, authorise the use of seed or seed potatoes not obtained by the organic production method, provided that the seed or seed potatoes are:

(a) not treated with plant protection products, other than those accepted for treatment of seed in part B of Annex II, to Regulation (EEC) No 2092/91, unless chemical treatment is prescribed in accordance with Council Directive 2000/29/EC [1] for phytosanitary purposes by the competent authority of the Member State for all varieties of a given species in the area where the seed or seed potatoes are to be used, and

(b) produced without the use of genetically modified organisms and/or any products derived from such organisms.

Article 4

Authorities or bodies responsible for granting authorisations

Inspection authorities or bodies referred to in Article 9 of Regulation (EEC) No 2092/91 are responsible for granting the authorisation referred to in Article 5 of the present Regulation, unless the Member State designates other authorities or bodies supervised by the Member State concerned.

Article 5

Conditions for granting authorisations

1. Authorisation to use seed or seed potatoes not obtained by the organic production method may only be granted in the following cases:

(a) if no variety of the species which the user wants to obtain is registered in the database provided for in Article 6;

(b) if no supplier is able to deliver the seed or seed potatoes before sowing or planting in situations where the user has ordered the seed or seed potatoes in reasonable time;

(c) if the variety which the user wants to obtain is not registered in the database, and the user is able to demonstrate that none of the registered alternatives of the same species are appropriate and that the authorisation therefore is significant for his production;

(d) if it is justified for use in research, test in small-scale field trials or for variety conservation purposes agreed by the competent authority of the Member State.

2. The authorisation shall be granted before the sowing of the crop.

3. The authorisation shall be granted only to individual users for one season at a time and the authority or body responsible for the authorisations shall register the quantities of seed or seed potatoes authorised.

[1] OJ L 169, 10.7.2000, p. 1.