



Working for organic farming in Europe

International Federation of
Organic Agriculture Movements –
EU Regional Group

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Austrian Presidency
Mr Plsek
Bundesministerium für Gesundheit und Frauen
Radetzkystrasse 2
A-1030 Wien

Dear Mr Plsek,

Proposals for a Council Regulation on organic production and labelling of organic products, amending Regulation (EU) no. 2092/91

In reviewing the new titles IV and V of the Council's proposed new regulation on organic production and labeling of organic products, the IFOAM EU group has conferred with stakeholders in order to offer comments and concerns from the organic sector. This letter highlights the most important points for our members. We have included some general questions related to the titles as well as very specific concerns of each Article and its components.

TITLE IV - LABELLING

General Questions:

- Why is it not mentioned that member states should prevent the fraudulent use of the indication referring to "organic" and words of similar intent?
- What are the extra benefits of making these special restrictions on private label organisations and their communication when they are already sufficiently covered by general legal framework with regard to misleading claims, (Directive on general labelling rules and Directive about unfair commercial practices of operators towards consumers)?
- The free market, including free labelling and advertising, promotes quality and competition. This is in favour of consumers. To what extent does Article 20 have an impact on the competition and the free market of organic products?
- How will the 'EU ORGANIC' text fragment, which can occur in 20 different languages, help to inform consumers? Was this proposal based on any consumer survey ensuring that compulsory labelling would not confuse consumers? Would it not be more recommendable to use a harmonised EU wide code number system?

Article 17 – Use of terms referring to organic production

17.1 We would like to keep the possibility of labelling 70-95% products as a way of facilitating a growing market of processed foods. We

support the additional category allowing indications of organic in the list of ingredients.

17.2 IFOAM EU welcomes the attempt to widen coverage of the protection of the term “organic” in the second line of 17.2. However we are uncertain from a legal perspective if this is sufficient protection. In the current regulation the protection extends to when a product shall be regarded as falling under this regulation, whereas the proposed text only says these terms shall not be used. It is not satisfactory for the new proposal to be less strict than the current regulation.

17.4 This should remain.

Article 18 – Compulsory indications

The proposal for additional compulsory labelling (either the EU logo or the wording EU-ORGANIC) will not create any higher level of recognition for consumers because of all the different EU languages and the fact that it cannot be compulsory on imported products. As a universal label is not possible, anything else is more likely to confuse consumers. It will also work against the aim in organic farming of promoting local consumption and therefore could be an obstacle to market development. A label will be used when it is beneficial, otherwise not. Items on a label should only be required when necessary, as space is limited and clarity is important. All additional requirements imposed on the sector will raise costs which will disadvantage organic products relative to non-organic products.

We therefore regard this proposal as unacceptable. The optional use of the EU logo should remain and if at all possible the graphic design should be improved. We propose to retain the measures found in the existing regulation.

18.1.a Consequently the word “control body” should be changed to inspection/certification body.

18.1.b We recognise that 18.1.b is put in brackets. It should be deleted as this extra indication is superfluous and potentially confusing.

18.3 The most important common information is supplied through the code number referred to in article 22.7. As per above, 18.3 should therefore be deleted.

Article 20 – Use of Claims

The Presidency revision is a slight improvement relative to the initial text but is still unacceptable. Most of this article is already covered by normal trades description and trading standards legislation, for example

the general labelling requirements of directive 2000/13/EEC. This applies to all businesses and can be used in the case of misleading labels. It therefore does not need duplicating here.

If a claim is accurate, whether specific or general, it should be possible to state it. Labels and advertising claims should offer the possibility for member states and private certifiers and inspection bodies to make specific indications about the various methods and applications going beyond the basic criteria of the regulation. Other restrictions constitute an unwarranted infringement on freedom of speech in a democratic society and on the market mechanisms in a market economy. The organic sector neither needs nor wants to be burdened by “extra laws”.

Furthermore article 20.2 creates even more confusion, as it remains unclear as to who in a country will define whether or not the use of claims is appropriate – competent authorities, regional state administrators?

IFOAM EU recognises that article 20.1 second sub-paragraph and article 20.2 are bracketed. We request that the whole article be deleted. Article 10.2 of the existing regulation could be inserted instead.

TITLE V - CONTRLS

General Questions:

There is uncertainty as to what extent the new proposal would lead to a change in the inspection system for organic farming:

- To what extent would the change to the system of the 882/2004 lead to an increasing nationalisation of the organic inspection system?
- To what extent would the interaction of the specific provisions proposed in Article 22 with the provisions laid down in Regulation (EC) No. 882/2004 change the current system?
- How does the Council plan to prevent unintended impact and avoid it colliding with mature current practices of organic inspection?

The regulation 882/2004 mentions in Article 63.2 the possibility for special rules for inspection and certification of organic food and farming.

- What specifically are the derogations from and adjustments to 882/2004 for certification of organic farming?
- Who will decide these (bearing in mind that regulation 882/2004 gives this responsibility to other committees than the Standing committee on organic farming)?
- Where will they be specified?

The Commission's own findings suggest that it is the national supervision of private inspection bodies, not the private inspection bodies themselves, that lacks consistency and effectiveness.

- What measures are planned to eliminate major deficiencies, identified in the past, that have been reasons for fraud: falsification of certificates, missing checks of product integrity for cross-border sales, insufficient communication, etc.?

Article 22 – Control system

22.1 First of all IFOAM EU welcomes that reference to the EU regulation 882/2004 is made only at the beginning of this article (22.1) and has been removed elsewhere, although ideally we would like the reference deleted entirely. IFOAM EU has several times asserted that Regulation 882/2004 (OFFC) is not an adequate reference regulation for the inspection and certification of organic farming, as it is aimed primarily at food safety issues to protect human health, which is very different to an environmental certification. Therefore inspection and certification measures need to be defined and included in this article.

IFOAM still finds the proposed text to be unclear in terms of who will decide on member state level, if and how the 882/2004 is to be applied. Also the wording "operating as a certification body" is unclear and creates confusion. The consequences are also unclear. This also supports the removal of the 882/2004 reference.

IFOAM EU does not find reference to 882/2004 acceptable. We find it inappropriate and very risky in terms of over-regulation. "Over-head" legislation should be kept to a minimum. The legislation and administration of the organic sector should not be an additional burden relative to other environmental or food certifications. That said, if there is to be reference to regulation 882/2004, then there must also be detailed here the 'derogations from and adjustments to' it as allowed in article 63.2 of regulation 882/2004.

22.3 Article 22.3 reads: "Control bodies operating as verification of compliance and certification of conformity bodies shall be accredited to the European Standard EN 45011 or ISO Guide 65". We propose the language of the current regulation: "*do fulfil the requirements of EN 45011 or ISO Guide 65*". We see major problems in particular for countries at an early stage of development in organic agriculture, where some inspection and certification bodies, despite fulfilling the requirements cannot afford the high costs of ISO accreditation. Similarly any public inspection system carried out by the authority must also be in compliance with ISO65 in order to ensure the same high standard. Note that IFOAM Accreditation is a specialist accreditation system compliant with the ISO 65 requirement.

22.6 IFOAM EU proposes a change in article 22.6 to: *“The identified competent authority may delegate, while maintaining the responsibility for the decisions and actions taken, the assessment and supervision of private control bodies to a private or public third party hereafter referred to as its “designate”. If delegated, the private or public third party shall not be engaged in inspection and/or certification and satisfy the requirements laid down in ISO 17011”*. This is drawn from the Codex Alimentarius Guidelines for organically produced food and would allow the delegation of some tasks to private accreditation bodies such as IFOAM/IOAS.

22.7 Furthermore in Article 22.7 it is mentioned “control body”. In all places the term “control body” should be replaced with *“inspection and certification bodies”*. Otherwise in some member states this still gives the impression that we are addressing an issue of ordinary food control and creates insecurity as to who will be responsible for organic certification.

Article 24 - Impartiality of the control system

One again the term “control bodies” should be replaced by *“inspection and certification bodies”* throughout. Clear differentiation needs to be made.

IFOAM EU recognizes that the Article 24.3 is put in brackets. We strongly support that 24.3 be deleted. The reasons are:

- Inspection and certification bodies with their own standards and marks must have jurisdiction over the granting of their marks, both for legal reasons and to safeguard consumer trust. This cannot be handed over to a third party without due agreement between them. This proposal cannot interfere with these legal obligations and the intellectual property rights they protect.
- Private and national labels are important aspects in the development of the organic sector. It is hence important to safeguard "private" initiatives and value different labels. The principle of the rights of private property (e.g. the value built into the labels) should not be regulated by this regulation - it should still be possible to say NO to recertification.
- Assuming this is meant to apply, not only to certification at EU level, but also to imports, it may be impossible for a certification body to 'prove that the organic standards under which the product concerned has already been certified are not equivalent to its own standards.'
- ISO Guide 23 (Methods of indicating conformity with standards for third-party certification systems) - which is referred to in EN 45011 - does not presuppose a certificate when a permit or license for the use of a mark of conformity is given.
- All of 24.3 is already addressed in EN45011.

Article 25 – Measures in case of infringements and irregularities

25.1 The role of the approved inspection and certification bodies must be clearly defined in this Article and should be no different from those in the existing regulation. This is not the case with this proposal.

Furthermore, it should also mention that the indications and logos are not only “not used on” but also “*are removed from*” the entire lot or production run affected by an irregularity. We welcome the use of the terms “severe irregularity” and “manifest infringement”, however they need good definitions.



Annex II

Annex II is superfluous and should be deleted.

Recognising the crucial importance of these issues to the effective and appropriate development of organic farming in the EU, we trust that you will consider very carefully these concerns from the organic sector and take them into account in your deliberations.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Francis Blake". The signature is written in a cursive style with a horizontal line underneath the name.

Francis Blake
President