

Exceptional Production Rules Proposal for the Implementing Rules Final – 6th September 2007

Background

Article 22 of the new Council regulation on organic production and labelling of organic products (no. 834/2007) establishes a new concept of flexibility, providing for the possibility of allowing exceptions to the production rules in certain limited circumstances.

It replaces the concept of 'derogation' in the existing regulation (no. 2092/91), setting out a common and controlled procedure for managing these exceptions. It also recognises the need for flexibility in applying organic farming rules in the very different conditions in different parts of the EU.

The new article 22 is necessary because of the (still) small scale and relatively undeveloped nature of organic farming. However, it is also controversial. On the one hand, it gives room for flexibility and adaptation and hence can promote development; on the other hand, it could cause market distortion resulting from differential application of the regulation in different member states.

The IFOAM EU Group has reviewed and consulted on article 22 of the new regulation and details below its initial proposals for the process of implementing this article. The comments below are a first contribution. We will return later with further recommendations.

Proposal

To make this article a tool for development of the sector, we can identify important additions and aspects that need to be included in the implementation of the exceptional production rules to supplement article 22.

The most central factors are transparency, consultation, publication and the possibility to "appeal" and bring an exemption to reconsideration and rejection by the Commission (assisted by the Regulatory Committee).

We mean, if this is implemented, there is a need to bring cases forward to the Regulatory Committee for decision/rejection according to the proposal below if there are "complaints" or "disagreements" in the consultative process.

1. Principles

- 1.1 Exceptions are considered, in the first instance, by competent authorities at either the EU or national or regional level for which the exception was requested.

- 1.2 There is a set procedure for considering exceptions, which involves the applicant (usually a member state) clearly documenting the necessity, and the limits, for the exception.
- 1.3 Decisions on exceptions shall include either time limits or review dates.
- 1.4 Member states are responsible for supervising implementation within their territory.
- 1.5 The justifying documentation, together with the decision and the conditions/restrictions, and the results of annual monitoring are publicly available.
- 1.6 The flexibility system as a whole shall be reviewed after 4 years.

2. Procedure

- 2.1 Documentation for exceptions shall be published in advance by the Commission on the Commission website to allow for public comments for a set period (3 months). The publication shall at least indicate the scope of the application, the reasons for the application and the region where the application shall be applied.
- 2.2 In urgent situations (e.g. lack of fodder or grazing due to exceptional weather conditions) where a consultative process beforehand is not possible, the documentation shall be made available less than one month after the exception coming in to force, with the possibility to comment at European level.
- 2.3 The decision on the exception will include geographical spread, conditions, time limit or review date, and any required plan for ending it.
- 2.4 Exceptions shall not be made if they:
 - i) could lead to market distortion between member states or competitive advantages for beneficiaries of the exception, or
 - ii) likely to cause significant consumer distrust.
- 2.5 Exceptions granted because of unavailability of organic inputs shall always have short periods of application, so as not to hinder the development of organic production.
- 2.6 Decisions on exceptions and their justification shall be published and documented on the Commission website.
- 2.7 If a Member State or a stakeholder (consumer-, environmental- animal protection- or organic organisation) raises major concerns, the exception shall be brought to reconsideration in the Regulatory Committee. The Commission, assisted by the Regulatory Committee, bases the decision on the extent and nature of the need in relation to the extent and nature of the appeals.
- 2.8 A record of all existing and old exceptions shall also be kept on the website.



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- 2.9 Member states shall monitor the use of exceptions and any plans to end exceptions and shall report these to the Commission.
- 2.10 The Commission shall monitor and publish these reports.