



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 28 April 2006

DS 330/06

PRESIDENCY NOTE

from : Working Party on Foodstuff Quality (Organic Farming)

No. prev. doc. : 8554/06

No. Cion prop. : 5101/06

Subject : Proposals for Council Regulations

- on organic production and labelling of organic products
 - amending Regulation (EE) no. 2092/91 on organic production of agricultural products and indications referring thereto in agricultural products and foodstuffs
-

Delegations will find attached hereafter in the Annex drafting suggestions from the Presidency on titles IV and V of the Proposal for a Council Regulation on organic production and labelling of organic products.

TITLE IV LABELLING

Article 17

Use of terms referring to organic production

- 1.¹ The terms listed in Annex I, their derivatives or diminutives, alone or combined, may be used throughout the Community and in any Community language for the labelling and advertising of a product which satisfies the requirements set out under this Regulation.

Where these terms are used for processed food

at least 95% by weight, of the ingredients of agricultural origin shall be organic

However, these terms may also be used for processed food where less than 95% by weight of the ingredients of agricultural origin are organic provided that they are only used in the list of ingredients only in relation to ingredients of agricultural origin obtained in accordance with this Regulation; this indication shall appear in the same colour and with an identical size and style of lettering as the other indications in the list of ingredients.

2. The terms referred to in paragraph 1 shall not be used anywhere in the Community and in any Community language for the labelling and advertising of a product which satisfies not the requirements set out under this Regulation, unless they are not applied to agricultural products in food or feed or clearly have no connection with organic production.

Furthermore, any terms or practices used in labelling or advertising liable to mislead the consumer or user by suggesting that a product or its ingredients satisfies the requirements set out under this Regulation shall not be used.

3. The terms referred to in paragraph 1 shall not be used for a product for which it is or has to be indicated in the labelling that it contains GMOs, consists of GMOs or is produced from GMOs according to Community provisions.

4. In accordance with provisions laid down in Regulation (EEC) No. 40/1994:

- (a) An application for registration of a trademark corresponding to one of the situations referred to in paragraph 2 shall be refused.
- (b) Trademarks registered in breach of the first subparagraph shall be invalidated.
- (c) The use of a trademark corresponding to one of the situations referred to in subparagraph 2 shall be refused.

¹ The text of this paragraph is linked to the interpretation of the word "essentially" in Article 6(a).

- [4. Member States shall take the measures necessary to ensure compliance with this Article.]
5. The Commission may in accordance with the procedure referred to in Article 31(2) adapt the list of terms set out in Annex I.

Article 18

Compulsory indications

1. Where terms are used as referred to in Article 17(1), the following indications shall also appear in the labelling.
 - (a) the code number referred to in Article 22(7) of the authority or control body to which the operator who has carried out the production or the most recent preparation operation is subject
 - (b) [where the logo referred to in Article 19 is not used, at least one of the indications listed in Annex II in capital lettering].
2. The indications referred to in paragraph 1 shall be marked in a conspicuous place in such a way as to be easily visible, clearly legible and indelible.

In addition, the Commission shall in accordance with the procedure referred to in Article 31(2) lay down specific criteria as regards the presentation, composition and size of the indications referred to in paragraph 1.
3. The Commission shall in accordance with the procedure referred to in Article 31(2) adapt the list of indications set out in Annex II.
4. In the labelling of products imported from third countries, the code number or [the name] of the authority or the control body of the third country shall appear. The use of the indications referred to in paragraph 1(b) shall be optional.

Article 19

Community logo

The Commission shall, in accordance with the procedure referred to in Article 31(2), define a Community logo which may be used in the labelling, presentation and advertising of products which satisfies the requirements set out under this Regulation.

Article 20
Use of claims

1. Claims suggesting to the consumer or user that a particular set of private or national organic standards or terms referred to in Article 17(1) or indications referred to in Article 18 constitute a guarantee of superior quality may not be used in the labelling or advertising.

[General claims that a particular set of private or national organic standards is stricter, more organic or otherwise superior to the rules laid down in this Regulation, or to any other set of organic standards, may not be used on labels or in advertising.]

However, indications referring to specific elements of the production method used for a certain product may only be used in the labelling or advertising on condition that they are true statements of fact and otherwise in conformity with Community provisions.

- [2. Member States shall take the measures necessary to ensure compliance with the conditions set out in this Article.]
2. The Commission may in accordance with the procedure referred to in Article 31(2) adopt measures in order to ensure compliance with this Article.

Article 21
Specific labelling requirements

The Commission shall in accordance with the procedure referred to in Article 31(2) establish specific labelling requirements applicable to:

- (a) organic feed;
- (b) conversion products;
- [(c) products originating from mass caterers (as referred to in Art. 1 of Directive 2000/13).]

“mass caterers” means restaurants, hospitals, canteens and other similar food business

TITLE V CONTROLS

Article 22

Control system

1. Member States shall set up a system of controls and designate the competent authority or authorities responsible for controls in respect of the obligations established by this Regulation in conformity with Regulation (EC) Nr. 882/2004..
2. In the context of this Regulation the nature and frequency of the controls shall be determined on the basis of an analysis of the risk of breach of its provisions. In any case all operators shall be subject to a verification of compliance at least once a year.
- 3.
3. The competent authority may
 - a) confer to one or more other authorities its control competences ;
 - b) delegate control tasks to one or more control bodies..

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 ‘General requirements for bodies operating product certification systems’ of the version as most recently notified by a publication in the *Official Journal of the European Union, C series* and be approved by the competent authority or authorities,

5. Control bodies shall give the competent authority or authorities access to their offices and facilities and provide any information and assistance deemed necessary by the competent authority for the fulfilment of its obligations according to this Article.
6. The competent authority or authorities may not delegate the following tasks to the control bodies operating as certification bodies:
 - (a) the supervision and audit of other control bodies operating as certification bodies
 - (b) (b) the competence to grant exceptions, as referred to in Article 16, unless this is provided for in the specific conditions laid down by the Commission in accordance with Article 16(3).
7. Member States shall attribute a code number to each authority or control body operating as certification body

8. The authorities or control bodies shall by 31 January each year at the latest transmit to the competent authority a list of the operators which were subject to their controls on 31 December of the previous year., a summary report of the control activities carried out during the previous year shall be provided by 31 March each year.

Article 23

Adherence to the control system

1. Any operator referred to in Article 1 (3), prior to placing any products on the market, shall:
 - (a) notify this activity to a competent authority of the Member State where the activity is carried out;
 - (b) submit his undertaking to the control system.
2. Member States may exempt from the application of this Article
 - a) operators who sell products directly to the final consumer or user provided they do not produce, prepare, store or import such products. However storing in connection with the point of sale may be exempted.
3. Member States shall ensure that any operator who complies with the rules of this Regulation, is entitled to be covered by the control system.
4. The costs of verification of compliance and certification of conformity with the requirements of this Regulation shall be borne by the operators subject to the adherence to the control system.
5. The competent authority shall keep an updated list containing the names and addresses of operators subject to the control system.

Article 24

Impartiality of the control system

- 1 The competent authority or authorities or the control bodies operating as product certification bodies may grant operator licences, or the use of certificates or marks of conformity with particular sets of organic standards, to operators which are subject to the control system.
2. . A competent authority subject to Article 20, may establish a mark of conformity;
the use of such a mark of conformity shall not be refused for any product, [process or service] that meets the requirements set out under this Regulation.
- [3 A authority or control body operating as a certification body:
- (a) shall not give advice or provide consultancy services to the operator as to methods of dealing with matters which are barriers to the certification of conformity requested;
 - [(b) may, subject to Article 20, establish its own particular set of private standards and corresponding certificates or mark of conformity;
 - (c) where, as referred to in subparagraph (b) it owns a particular set of private standards or marks of conformity, it shall not refuse to grant operator licences, its own certificates or marks of conformity for any product, process or service that has been certified by another approved control body operating as a certification body, where the latter body has assessed and certified conformity with organic standards equivalent to those of the first control body for which certification of conformity is applied for;
 - (d) which refuses to grant operator licences, its own certificates or own mark of conformity, shall provide proof that the organic standards under which the applicant product, process or service concerned has already been certified are not equivalent to its own standards.]

Article 25

Measures in case of infringements and irregularities

1.

Where an severe irregularity is found as regards compliance with the requirements laid down in this Regulation, the authority or control body operating as certification body shall ensure that the terms, indications and the logo provided for in Articles 17, 18 and 19 are not used on the entire lot or production run affected by this irregularity;

Where a manifest infringement or an infringement with prolonged effect is found, the competent authority shall prohibit the operator concerned from marketing products with terms, indications and the logo referring to the organic production method for a period to be determined

2. Information on cases of irregularities or infringements affecting the organic status of a product shall be immediately communicated between the concerned control bodies, competent authorities, Member States and, where appropriate, to the Commission.

The level of communication shall depend on the severity and the extent of the irregularity or infringement found.

The Commission may in accordance with the procedure referred to in Article 31(2) lay down specifications regarding the form of such communications.

Article 26
Exchange of information

Upon request duly justified by the necessity to guarantee that a product has been produced in accordance with this Regulation, the competent authorities and the control bodies shall exchange with other competent authorities and control bodies relevant information on the results of their controls. They may also exchange such information on their own initiative.

[ANNEX II

Indications referred to in Article 18(1)(b)

- UE-ECOLÓGICO,
- EU-EKOLOGICKÉ,
- EU-ØKOLOGISK,
- EU-ÖKOLOGISCH,
- EL-MAHE,
- EL-ÖKOLOGILINE,
- EE-BIOΛΟΓΙΚΟ,
- EU ORGANIC,
- UE-BIOLOGIQUE,
- AE-ORGÁNACH,
- UE-BIOLOGICO,
- ES-BIOLOGISKĀ,
- ES-EKOLOGIŠKAS,
- EU-ÖKOLÓGIAI,
- EU-ORGANIKU,
- EU-BIOLOGISCH,
- UE-EKOLOGICZNE
- EU-EKOLOGICKE,
- EU-EKOLOSKI,
- EU-LUONNONMUKAINEN,
EU-EKOLOGISK.]