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DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B. Quality, Research & Innovation, Outreach
B.4. Organics

Frequently asked questions ON ORGANIC RULES

Foreword

This document compiles questions and answers regarding the provisions of Regulations (EC) No 834/2007, (EC) No 889/2008 and (EC) No 1235/2008.

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1. SUBJECT MATTER, SCOPE, DEFINITIONS

1) Can food supplements be organic?

Food supplements are food in accordance with the definition provided for Article 2(j) of Regulation (EC) No 178/2002 on food law. Article 1(2) of Regulation (EC) No 834/2007 defines the scope of organic regulation which applies to the following *“products originating from agriculture, including aquaculture, where such products are placed on the market or are intended to be placed on the market:*

(a) live or unprocessed agricultural products;

(b) processed agricultural products for use as food;

(c) feed;

(d) vegetative propagating material and seeds for cultivation. The products of hunting and fishing of wild animals shall not be considered as organic production. This Regulation shall also apply to yeasts used as food and feed.”

Hence, only food supplements produced from agricultural ingredients fall under the scope of Regulation (EC) No 834/2007 and can be labelled as organic

Food supplements produced from vitamins and minerals do not fall under the scope of organic legislation and cannot be labelled as organic under Regulation (EC) No 834/2007.

2) Can Kombucha also known as "scooby" be certified as organic?

Kombucha culture or scoby is a symbiotic colony of bacteria and yeast.

Processed agricultural products for use as food and yeast used as food fall under the scope of the organic legislation as set out in Article 1(2) of

Regulation (EC) No 834/2007. Therefore, kombucha tea and scoby can be certified as organic provided that the rules for the production and labelling of processed food are complied with.

Article 19(2)(b) of Regulation (EC) No 834/2007 in combination with Article 27(1)(b) of Regulation (EC) No 889/2008 authorise the use of *"preparations of micro-organisms and enzymes normally used in food processing"*.

If kombucha tea is produced by adding to organic tea a preparation of yeast and micro-organisms and enzymes, which could be considered as normally used in food processing, the beverage can be certified as organic.

However, if kombucha tea is produced by adding scoby (yeast+bacteria) as an ingredient, the scoby (as ingredient) has to comply with the production rules of organic yeast set out in Article 20 of Regulation (EC) No 834/2007 and Article 27a of Regulation (EC) No 889/2008. These provisions require for the production of organic yeast the use of organically produced substrates and allow the use of preparations and micro-organisms and enzymes normally used in food processing in the production, confection and formulation of yeast. If the rules on production of organic yeast are respected, the scoby can be certified as organic and added as an ingredient in the production of organic beverages. As a result, kombucha tea and scoby can be certified as organic, provided that the rules for the production of organic processed food are respected and complied with.

3) Can the term "bio" be used on the label of detergents?

The scope of the organic legislation is set out in Article 1(2) of Regulation (EC) No 834/2007 and covers unprocessed agricultural products and processed agricultural products for use as food.

Detergents are not unprocessed or processed agricultural products for use as food, and as a consequence, detergents do not fall under the scope of the organic legislation and can be neither certified as organic under Regulation (EC) No 834/2007, nor labelled or advertised using the EU organic logo.

However, Article 23(2) of Regulation (EC) No 834/2007 provides that: *"The terms referred to in paragraph 1 (i.e. Eco or bio) shall not be used anywhere in the Community and in any Community language for the labelling, advertising and commercial documents of a product which does not satisfy 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."

Therefore, the organic legislation does not prevent the use of the terms referring to the organic production method, such as "bio" or "eco", in products not related to agricultural products or on products where there is clearly no connection with organic production.

4) Can spirulina be certified as organic?

Spirulina is a product made of algae. Algae are agricultural products (live or unprocessed agricultural products) and thus fall within the scope of the organic legislation under Article 1(2) of Regulation (EC) No 834/2007.

5) Can alcoholic drinks be certified as organic?

In the European Union, alcoholic beverages having an alcohol content of more than 15% volume are governed by Regulation (EC) No 110/2008 (Spirit drinks Regulation). Furthermore, spirit drinks, like all alcoholic beverages, are considered as foodstuffs and are subject to general and sector specific foodstuff legislation.

Article 1(2) of Regulation (EC) No 834/2007 sets out the scope of the organic legislation as follows: *"This Regulation shall apply to the following products originating from agriculture, including aquaculture, where such products are placed on the market or are intended to be placed on the market:*

(a) live or unprocessed agricultural products;

(b) processed agricultural products for use as food;

(c) feed;

(d) vegetative propagating material and seeds for cultivation. The products of hunting and fishing of wild animals shall not be considered as organic production. This Regulation shall also apply to yeasts used as food and feed."

Spirit drinks are made out of ingredients of agricultural origin falling under the scope of Regulation (EC) No 834/2007. Therefore, spirit drinks can be certified organic, provided that the processing of such foodstuff complies with the rules and principles applicable to the processing of organic food laid down in the organic legislation referred above.

6) Can a fertiliser be certified as organic?

No. Article 1(2) of Regulation (EC) No 834/2007 states that *"This Regulation shall apply to the following products originating from agriculture, including aquaculture, where such products are placed on the market or are intended to be placed on the market:*

- (a) live or unprocessed agricultural products;*
- (b) processed agricultural products for use as food;*
- (c) feed;*
- (d) vegetative propagating material and seeds for cultivation.*

The products of hunting and fishing of wild animals shall not be considered as organic production. This Regulation shall also apply to yeasts used as food and feed. "

Fertilisers are not included in this list of products and therefore cannot be certified as organic under Regulation (EC) No 834/2007. However, they can be used as input in organic production and under Article 16(1) of Regulation (EC) No 834/2007, the Commission authorises certain fertilisers for use in organic production and includes them in a restricted list. Annex I to Regulation (EC) No 889/2008 lays down the list of fertilisers that can be used in organic production in the EU.

In addition, Article 16(2) requires that *"products and substances contained in the restricted list mentioned above may only be used in so far as the corresponding use is authorised in general agriculture in the Member States concerned in accordance with the relevant Community provisions or national provisions in conformity with Community law"*.

Therefore, it is important to contact the Competent Authorities of the Member State in which the product is going to be marketed and used.

A list of these authorities is provided, per Member State, on the following link:

https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/becoming-organic-farmer/organics-country_en

7) Is there a possibility to certify essential oils as organic?

Regulation (EC) No 834/2007 applies to processed agricultural products for use as food. Therefore, essential oils produced from agricultural ingredients intended *for food consumption* can be certified as organic, provided the requirements set out in that Regulation are complied with. Furthermore, essential oils used as food also need to respect the relevant

requirements laid down in EU legislation on foodstuffs, such as Regulation (EC) No 178/2002.

Finally, cosmetic products, i.e. essential oils are not covered by the scope of the EU organic legislation (because they are not intended for human consumption), and cannot therefore be certified as organic under Regulation (EC) No 834/2007, nor be labelled or advertised using the EU organic logo.

8) Can mushrooms be certified as organic?

Mushrooms are covered by the scope of the organic legislation. Mushrooms are considered as plants for the purpose of the organic legislation even if mushrooms are not plants according to the current biological classification.

Thus, the general rules for plant production as laid down in Article 12 of Regulation (EC) No 834/2007 as well as specific production rules for mushrooms (Article 6 of Regulation (EC) No 889/2008) are applicable.

9) Can the EU organic logo be used on organic Shea Butter cream?

No. Regulation (EC) No 834/2007 applies to products originating from agriculture, including aquaculture, which are intended for use as food or animal feed.

Therefore, cosmetics can be neither certified as organic under Regulation (EC) No 834/2007 nor labelled or advertised using the EU organic logo.

The production and labelling of organic cosmetics is not regulated at EU level. Member States might have national legislation in this regard. Therefore, it is important to contact National authorities in this matter. A list of these authorities is provided, per Member State, on the following link:

https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/becoming-organic-farmer/organics-country_en

10) Can dried tobacco leaves be certified as organic?

No. Dried tobacco leaves are a processed product not for use as food or feed, and therefore cannot be certified as organic under Regulation (EC) No 834/2007.

Moreover, even if Member States might have national legislation or private standards, Article 13(1)(b) of Directive 2014/40/EU prohibits labelling of tobacco products with any element or feature suggesting that a particular tobacco product has organic properties.

2. LABELLING AND LOGO

1) What does the organic logo of the European Union look like?

It is often named the "Euro-leaf". It symbolizes the marriage of Europe (the stars derived from the European flag) and nature (the stylized leaf and the green color).

2) What is the meaning of the EU organic logo?

For processed products, the EU organic logo indicates that the product is in full conformity with the rules and conditions applicable to the production of processed food and that at least 95% of the ingredients of agricultural origin are organic. Next to the EU organic logo, a code number of the control body must be displayed as well as the place where the agricultural raw materials composing the product have been farmed.

3) What needs to be considered when using the EU organic logo?

The relevant EU legislation is Regulation (EC) No 834/2007 and Regulation (EC) No 889/2008. Moreover, the European Commission's Directorate-General for Agriculture and Rural Development has developed a detailed user manual, which includes concrete guidelines for the use of the EU organic logo. The user manual is available for download on the EU Organic Farming Website at the following address:

https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/organics-glance/organic-logo_en#displayingthelogo

4) Is the use of the EU organic logo compulsory and if yes, can it coexist with other national and private labels?

Where the terms referred to in Article 23(1) of Regulation (EC) No 834/2007 are used (e.g. organic, bio, eco...), the EU organic logo is

compulsory for the labelling and advertising of organic prepackaged food products, which satisfy the requirements set out under Regulation (EC) No 834/2007 and Regulation (EC) No 889/2008.

Subject to the respect of EU legislation, national and private labels can be used and displayed on organic products next to the Euro-leaf.

5) For which products is the EU organic logo not to be used?

The EU organic logo cannot be used for products which are not covered by the scope of the organic legislation or that do not satisfy the requirements set out under Regulation (EC) No 834/2007. The EU organic logo shall not be used in the case of in-conversion products and food as referred to in Article 23(4)(b) and (c) of Regulation (EC) No 834/2007, i.e. products containing less than 95% of organic ingredients or containing mainly products of hunting and fishing of wild animals.

Examples of use:

Can the EU organic logo be used on packaging material of the following products (on condition that they satisfy the requirements set out under Regulation (EC) No 834/2007)?

- Sardines in organic olive oil: NO
- Organic farming salmon: YES
- Organic wine: YES
- Soup made from organic vegetables: YES
- Wool from organic sheep: NO
- Milk from a dairy farm in conversion period: NO

6) What additional information is mandatory when the EU organic logos is used?

Whenever the EU organic logo is used on a product, it always has to be accompanied by the code number of the control body and the place where the agricultural raw materials of which the product is composed have been farmed.

7) Where should the mandatory additional information be placed?

The code number of the control body or control authority shall be placed in the same visual field as the EU organic logo. Indication of the place of farming should appear directly below the reference to the control body. You can find at the following address further information including a user manual:

https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/organics-glance/organic-logo_en

8) How should the code number of the control body be displayed?

The code number shall appear as follows: AB-CDE-999 where "AB" is the ISO code for the country where the controls take place, "CDE" is a term establishing a link with the organic production like "bio" or "eko" and "999" is the attributed reference number composed of 1 to 3 digits.

9) How should the indication of place of farming be displayed?

The indication of the place where the agricultural raw materials of which the product is composed have been farmed shall appear as follows:

- 'EU Agriculture', where the agricultural raw material has been farmed in the EU,
- 'non-EU Agriculture', where the agricultural raw material has been farmed in third countries,
- 'EU/non-EU Agriculture', where part of the agricultural raw materials has been farmed in the Union and a part of it has been farmed in a third country. The indication 'EU' or 'non-EU' can be replaced or supplemented by a country in the case where all agricultural raw materials of which the product is composed have been farmed in that country. For the above-mentioned 'EU' or 'non-EU' indication, small quantities by weight of ingredients can be disregarded provided that the total quantity of the disregarded ingredients does not exceed 2% of the total quantity by weight of raw materials of agricultural origin.

10) Is it compulsory to indicate the code number of the control body and the place of farming on the labelling of products where the EU organic logo is not used?

Yes. The code number of the control body must appear on all products using the terms referring to organic production, irrespective of the use of the logo. However, the place of farming is compulsory only when the logo is used.

11) Is there a database or catalogue of companies producing organic certified products available on the Europa website?

No. However you can find a list of approved control bodies and control authorities in charge of controls on the EU organic website. These control bodies can be distinguished by the code number that is displayed under the EU organic logo. By visiting the websites of these approved control bodies and control authorities, you can access a list of operators and the products that they produce and which are certified as organic.

EU organic web sites:

http://ec.europa.eu/agriculture/ofis_public/index.cfm

12) What are the technical aspects of placing the logo on the packaging?

For the technical aspects, please consult the user manual of the EU organic logo.

https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/organics-glance/organic-logo_en

13) Can I reduce the size of the logo for very small packages?

Part A of Annex XI of Regulation (EC) No 889/2008 sets out the model of the EU organic logo, in particular point 7 establishes that "the organic logo of the EU must have a height of at least 9 mm and a width of at least 13,5 mm; the proportion ratio height/width shall always be 1:1,5. Exceptionally the minimum size may be reduced to a height of 6 mm for 'very small packages.'"

The concept of "very small packages" is not defined in Regulation (EC) No 834/2007. However, Article 13(6) of Regulation (EC) No 1169/2011 on food information for consumers allows for the omission of certain

mandatory food information *"in the case of packaging or containers the largest surface of which has an area of less than 10 cm²".* Therefore, if, in view of the labelling requirements laid down in the above-mentioned Regulations it can be considered that the package is too small to be labelled with these labelling requirements and retain the integrity of the logo at the minimum size of 9mm/13.5mm, the logo can be reduced, exceptionally, to a height of 6mm.

The provisions regarding the presentation, composition, size and design of the logo on the packaging of a product are set out in Articles 57, 58 and Annex XI of Regulation (EC) No 889/2008, and a downloadable EU logo user manual is available on DG AGRI organic webpage with all relevant technical details:

https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/organics-glance/organic-logo_en#when-to-use-the-organic-logo

14) Can I use the EU organic logo in a brochure concerning cosmetic products?

No. The scope of the organic legislative framework is set out in Article 1(2)(b) of Regulation (EC) No 834/2007 covering live or unprocessed agricultural products; processed agricultural products for use as food or feed; feed; vegetative propagating material and seeds. Processed agricultural ingredients not intended for use as food (i.e. cosmetic products) are not covered by the scope of the EU organic legislation. As a consequence, they cannot be certified as organic under Regulation (EC) No 834/2007, nor be labelled or advertised using the EU organic logo. The production and labelling of organic cosmetics is not regulated at EU level.

15) Does the list of ingredients have to indicate which ingredients are organic?

Yes. The list of ingredients shall indicate which ingredients are organic as set out under the second subparagraph of Article 23(4) of Regulation (EC) No 834/2007. The list of ingredients must indicate which ingredients are organic even if they are all organic.

16) Is the use of a third country organic label for products imported to EU sufficient or is the product required to bear also the EU organic label?

The third country certified label must be a production standard recognised by the EU for the purposes of equivalence as set out in Annex III of Regulation (EC) No 1235/2008. The term "equivalence" means that the EU recognises the third country as having equivalent organic production rules and control systems. The fifth subparagraph of Article 24(1) of Regulation (EC) No 834/2007 states that the use of the organic production logo of the European Union (organic logo of the EU) for products imported from third countries is optional: *"The use of the Community logo as referred to in Article 25(1) and the indication referred to in the first subparagraph shall be optional for products imported from third countries. However, where the Community logo as referred to in Article 25(1) appears in the labelling, the indication referred to in the first subparagraph shall also appear in the labelling"*. Therefore, in accordance with the above, the use of the third country organic certified label is sufficient, and the use of the EU organic logo is optional.

However, a product imported from a third country can only be placed in the EU market if it is covered by a certificate of inspection issued by the competent authorities, control authorities or control bodies of the third country recognized as equivalent in accordance with Article 33(2) of Regulation (EC) No 834/2007.

17) Can I use the EU organic logo in my restaurant menu?

No. The rules on organic production and the use of the EU organic logo in the labelling, presentation and advertising of products which are placed on the EU market as organic are set out in Regulation (EC) No 834/2007 and Regulation (EC) No 889/2008. The scope of these Regulations is set out in Article 1(2) of Regulation (EC) No 834/2007. However, according to the second subparagraph of Article 1(3), mass catering operations are not subject to the organic legislative framework. Member States can apply national rules on labelling, advertising and control of products originating from mass catering operations (mass catering operations means the preparation of organic products in restaurants, hospitals, canteens and other similar food business at the point of sale or delivery to the final consumer (Article 2(aa) of Regulation (EC) No 834/2007).

Therefore, mass catering operations are not covered by the scope of the EU organic legislation and thus the organic logo of the European Union cannot be used to advertise products produced by mass catering.

18) What compulsory indications should appear in the labelling of unpackaged organic products?

According to Article 24(1)(b) of Regulation (EC) No 834/2007 the use of the logo is compulsory for all organic prepackaged food produced within the European Union. According to Article 24(1)(a) of Regulation (EC) No 834/2007 the code number of the control body or control authority is a compulsory requirement for organically produced products irrespective of the use of the logo. Article 24(1)(c) states that, where the EU organic logo is used, an indication of the place where the agricultural product was farmed must be given in the same visual field as the logo. Thus, the code number of control bodies must appear on all organic products, whether the logo is used or not. Where the logo is used, the place of farming of the agricultural raw material is also compulsory. These indications are to be labelled in accordance with Article 24(2) in the sense that they shall be "marked in a conspicuous place in such a way as to be easily visible, clearly legible and indelible".

19) Can I use the EU organic logo in black and white, and can it be used in sticker form?

No. Point 3 of Section A of Annex XI to Regulation (EC) No 889/2008 states that *"the organic logo of the EU can be used in black and white only when it is not practicable to apply it in colour"*. Furthermore, as explained in the user manual, the black and white "one-colour version" is only authorised when the printing process does not allow for the use of the original green colour, in which case it is to be printed in black or in a dark colour on a white or a light coloured background only. As outlined in Articles 24 and 25 of Regulation (EC) No 834/2007, whenever the EU organic logo is used on a product it has to appear together with other obligatory labelling requirements. Thus a sticker placed on a product showing the logo alone - without these labelling requirements - is not deemed to comply with the relevant EU legislation.

20) Can a citizen use and publish the EU organic logo in a publication or on a website?

Use of the EU organic logo in the labelling, presentation and advertising of products which are placed on the EU market as organic is regulated by Regulation (EC) No 834/2007. The Regulation does not provide for rules concerning the use of the EU organic logo in different contexts other than products placed on the market as organic, except where practices of operators in labelling or advertising would be liable to mislead the consumer or user by suggesting that a product or its ingredients satisfy the requirements set out under Regulation (EC) No 834/2007 (see in this respect Article 23 (2))

However, using the EU organic logo for information or educational purposes related to the existence of the scheme or to the logo itself is in principle possible, as long as its use is not misleading and the logo is reproduced in a correct manner.

21) Is it possible to label on the front of a packaging of a processed food "the product has an organic ingredient"?

In accordance with Article 23(4)(b) of Regulation (EC) No 834/2007 the terms referring to the organic production method such as "organic", can only be used in the list of ingredients when the food complies with Article 19(1), 19(2)(a), 19(2)(b) and 19(2)(d) of the same Regulation. This is the case when a processed food contains organic ingredients together with non-organic ingredients. In such cases, in accordance with the second, third and fourth subparagraphs of Article 23(4) of Regulation (EC) No 834/2007:

- *"The list of ingredients shall indicate which ingredients are organic."*

- *"[...] the references to the organic production method may only appear in relation to the organic ingredients and the list of ingredients shall include an indication of the total percentage of organic ingredients in proportion to the total quantity of ingredients of agricultural origin".*

- *"The terms and the indication of percentage referred to in the previous subparagraph shall appear in the same colour, identical size and style of lettering as the other indications in the list of ingredients".*

In accordance with Article 23(4)(a) of Regulation (EC) No 834/2007, only processed food which complies with Article 19 of Regulation (EC) No

834/2007 and for which at least 95% by weight, of its ingredients of agricultural origin are organic can use the term organic in the sales description. Therefore, a product with less than 95% of its agricultural ingredients organic cannot use the term organic on the front of the packaging but can indicate which ingredients are organic in the list of ingredients.

22) Is the EU organic logo required on the packaging and delivery note received from a European supplier (Business to business) for organic raw material?

No. According to Article 23 of Regulation (EC) No 834/2007 a product is regarded as bearing terms referring to the organic production method where, in the labelling, advertising material or commercial documents such a product is described in terms such as organic or "bio", suggesting to the purchaser that the product or its ingredients have been obtained in accordance with the organic legislation.

In accordance with Article 24(1)(a) of Regulation (EC) No 834/2007, if the term organic or another term referred to in Article 23(1) of Regulation (EC) No 834/2007 appears, it is compulsory to indicate, in the labelling, the code number of the body / control authority to which the operator who has carried out the most recent production or preparation operation is subject. Article 24(1)(b) of Regulation (EC) No 834/2007 provides that the use of the logo is compulsory only for organic prepackaged food produced within the European Union.

Article 2(k) of Regulation (EC) No 834/2007 defines 'labelling' as any terms, words, particulars, trademarks, brand name, pictorial matter or symbol relating to and placed on any packaging, document, notice, label, board, ring or collar accompanying or referring to a product.

Thus, when reference is made to the organic production method in the packaging of a product not intended to the final consumption or the documentation accompanying the organic raw material delivered business-to-business, the packaging and the commercial documents must bear the code number of the relevant control body, but is not required to use the EU organic logo.

23) Can an organic fig (being 75% of the whole product) covered with non-organic chocolate (25% of whole product) be labelled "Organic"?

No. The product does not conform to Article 23(4)(a)(ii) of Regulation (EC) No 834/2007 which states that "*at least 95% of its ingredients of agricultural origin are organic*".

However, in accordance with Article 23(3)(b) of Regulation (EC) No 834/2007 the term "organic" can be used in the list of ingredients provided that the food complies with Article 19(1), 19(2)(a), 19(2)(b) and 19(2)(d) of the same Regulation. When the term "organic" appears only in the list of ingredients, Article 23(4) of Regulation (EC) No 834/2007 also requires that: *"In the case where points (b) and (c) of this paragraph apply, the references to the organic production method may only appear in relation to the organic ingredients and the list of ingredients shall include an indication of the total percentage of organic ingredients in proportion to the total quantity of ingredients of agricultural origin"*.

3. ENFORCEMENT OFFICIAL CONTROL

1) Can an operator who has two plant production units and two processing activities rely on two different control bodies?

The EU legislative framework on organic production and labelling of organic products does not prevent an organic operator running two different activities, to use two different control authorities or control bodies to certify his compliance with the provisions set out in Regulations (EC) No 834/2007 and (EC) No 889/2008. In such case, following Article 63(2)(d) of Regulation (EC) No 889/2008 the operator shall accept the exchange of information between those authorities or bodies. That exchange of information is further defined in Article 92 of that Regulation.

2) Where can I find the list of national competent authorities for organic production in each Member State?

It is important to contact the relevant competent authority for more information on specific requirements related to labelling and to the control system, a list of which per Member State can be found on the following link:

https://ec.europa.eu/agriculture/ofis_public/index.cfm

3) Can two different code numbers of two different control bodies appear on the label of organic products?

According to Article 24(1)(a) of Regulation (EC) No 834/2007 it is compulsory to indicate the code number of the control body/control authority to which the operator who has carried out the most recent production or preparation operation is subject. Therefore, the code number of the control body of the operator that carries out the labelling or makes any alteration to the labelling must appear on the labelling of the organic product.

In the case where the product, already packaged and labelled, is sold by another operator/company than the operator who was responsible for the labelling, it is not acceptable to replace the code number of the control body or control authority of the operator who carried out the final stage of preparation (i.e. the labelling) with the code number of the control body or control authority of the operator who sells the product on the market.

However, all voluntary food information is subject to the requirements of Regulation (EU) No 1169/2011, and notably to its Chapter V. Food information provided for on a voluntary basis shall not mislead the consumer, as referred to in Article 7 of this Regulation and shall not be ambiguous or confusing for the consumer (see Article 36 of Regulation (EU) No 1169/2011). Under these conditions, it is therefore possible to add to the compulsory information according to Article 24 of Regulation (EC) No 834/2007 other information on the label, including information about the control/certification of another stage of production or preparation than the most recent production or preparation operation. However, the label has to make it clear to the consumer that the additional code number refers to a different stage of production or preparation than the one indicated according to Article 24.

4. CERTIFICATION SYSTEM

1) Does an operator selling organic products via the internet (i.e. an internet online platform) need to get an "organic certification", or is it equivalent to selling products in a shop?

Regulation (EC) No 834/2007 sets out the rules on organic production and labelling of organic products. Article 28(1) of that Regulation states that "any operator who [...] stores [...] or who places such products on the market shall, prior to placing on the market of any products as organic [...]: (a) notify his activity to the competent authorities of the Member State where the activity is carried out;(b) submit his undertaking to the control system referred to in Article 27." In addition, the last paragraph of the referred provision states that "where an operator contracts out any of the activities to a third party, that operator shall nonetheless be subject to the requirements referred to in points (a) and (b), and the subcontracted activities shall be subject to the control system." This means that an internet commercial platform even when the distribution or the "placing of the product on the market" has been subcontracted must adhere to the organic control system.

In addition, Article 28(2) of Regulation (EC) No 834/2007 states that "Member States may exempt from the application of this Article operators who sell products directly to the final consumer or user provided they do not [...] store other than in connection with the point of sale [...]". In order for products to be sold 'directly to the final consumer at the point of sale' within the meaning of Article 28(2) it is necessary for the sale to occur in the presence of both the operator or its sales personnel and the final consumer. In the case of internet sales, the products are stored at the point of dispatch, but there is a phase between storage and delivery to the final consumer (i.e. by mail). Thus, an internet platform cannot be considered as "storage in connection with the point of sale". In addition, the storage of organic products is subject to certain requirements as outlined in Article 35 of Regulation (EC) No 889/2008. The operator who has physical possession of the organic product during storage is required to submit its undertaking to the organic control system as outlined under Article 28(1) of Regulation (EC) N° 834/2007. On this matter, it has to be kept in mind Judgment of the Court C-289/16 concerning the interpretation of Article 28 (2) of Regulation (EC) No 834/2007 publicly available here:

<http://curia.europa.eu/juris/liste.jsf?num=C-289/16>

"Article 28(2) of Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 must be interpreted as meaning that, in order for products to be regarded as being sold 'directly', within the meaning of that provision, to the final consumer or user, it is necessary for the sale to occur in the presence of both the operator or his sales personnel and the final consumer." This confirms an internet platform cannot be exempted from organic certification because the sale of the product does not occur in presence of both operators.

2) Can an internet platform be exempted from the organic control system when dealing with prepacked organic products, which will not undergo any modifications and are ready for the final consumer?

Regulation (EC) No 834/2007 sets out the rules on organic production and labelling of organic products. Article 28(1) of that Regulation states that "Any operator who [...] stores [...] or who places such products on the market shall, prior to placing on the market of any products as organic [...]: (a) notify his activity to the competent authorities of the Member State where the activity is carried out; (b) submit his undertaking to the control system referred to in Article 27."

In addition, the last paragraph of the referred provision states that "where an operator contracts out any of the activities to a third party, that operator shall nonetheless be subject to the requirements referred to in points (a) and (b), and the subcontracted activities shall be subject to the control system."

Article 28(2) of that Regulation provides that "Member States may exempt from the application of this Article operators who sell products directly to the final consumer or user provided they do not [...] store other than in connection with the point of sale [...]".

In order for products to be sold 'directly to the final consumer at the point of sale' within the meaning of Article 28(2) it is necessary for the sale to occur in the presence of both the operator or his sales personnel and the final consumer. This is not the case for internet sales.

Products for sale by internet are stored at the point of dispatch, but there is a phase between storage and delivery to the final consumer (i.e. by mail). Thus, an internet platform cannot be considered as "storage in connection with the point of sale". In addition, the storage of organic products is subject to certain requirements as outlined in Article 35 of Regulation (EC) No 889/20084. The operator who has physical possession of the organic product during storage is required to submit his

undertaking to the organic control system as outlined under Article 28(1) of Regulation (EC) N° 834/2007.

Therefore, the distributor subcontracting the selling of organic products via the Internet is required to adhere to the organic control system under Article 28(1) of Regulation (EC) N° 834/2007.

3) Can a citizen buy herbs from a certified organic business and then on his own package and label them in plant-based capsules and later sell the packaged product with an EU organic labelling and logo?

A product using terms referring to organic production must adhere to Regulation (EC) No 834/2007 and Regulation (EC) No 889/2008, which lay out the rules on organic production and labelling of organic products.

Article 24(1) (a) of Regulation (EC) No 834/2007 states that it is compulsory to indicate "*the code number of the control body/control authority to which the operator who has carried out the most recent production or preparation operation is subject*". Furthermore, Article 24(1)(b) of that Regulation states that the logo is compulsory on pre-packaged food.

Article 28(1) of that Regulation provides that: "*Any operator who produces, prepares, [...] or who places such products on the market shall, prior to placing on the market of any products as organic [...] (a) notify his activity to the competent authorities of the Member State where the activity is carried out; (b) submit his undertaking to the control system [...]*".

This means that the operator who has carried out the most recent preparation of the product – *for packaging, labelling or alteration of the labelling* – must submit the undertaking to the relevant control body/authority where the activity is carried out before placing the product on the market, and the code number of this control body/authority must appear on the packaging in the same visual field as the EU organic logo according to Article 50 of Regulation (EC) No 889/2008.

4) How can a small producer of organic honey be allowed to use the EU organic certification and which will be the cost?

Regulation (EC) No 834/2007 lays out the rules on organic production and labelling of organic products. Operators must adhere to the organic control

system, which requires notifying the activity to the competent authorities and submitting the undertaking to the control system in accordance with Article 28(1) of the above-mentioned Regulation.

Regarding the cost of organic certification, Article 28(4) of that Regulation states, *"Member States shall ensure that any operator who complies with the rules of this Regulation, and who pays a reasonable fee as a contribution to the control expenses, is entitled to be covered by the control system"*.

5) Can EU organic products be sold via Internet and how?

Regulation (EC) No 834/2007 of 28 June 2007 lays out the rules on organic production and labelling of organic products. All organic production products using terms referring to organic production must adhere to this legislation. Article 24 of the same Regulation lays down the required compulsory labelling indications and Article 25 the requirements for the use of the EU organic logo.

Operators selling organic products must adhere to the organic control system in accordance with Article 28 of Regulation (EC) No 834/2007. Article 28(1) lays down the provisions for adherence to the control system by operators, including operators who sell organic products via the internet (e-commerce):

"Any operator who produces, prepares, stores, or imports from a third country products in the meaning of Article 1(2) or who places such products on the market shall, prior to placing on the market of any products as organic [...]:

(a) notify his activity to the competent authorities of the Member State where the activity is carried out;

(b) submit his undertaking to the control system referred to in Article 27."

Regulation (EC) No 834/2007 regulates the use of the EU organic logo on certain products when placed on the market as organic. The Regulation does not provide for rules concerning the use of the EU organic logo in different contexts other than products placed on the market as organic. Therefore, the EU organic logo can be used on the product itself if it meets the requirements of Regulation (EC) No 834/2007. If the EU logo is used on the e-commerce website, it can be done provided that the logo is presented in connection with a specific product and it is displayed together with the mandatory indications required by the EU organic legislation.

If terms referring to organic production are used on the website, the second paragraph of Article 23(2) of Regulation 834/2007 must be respected:

*"any terms, including terms used in trademarks, or **practices used in labelling or advertising liable to mislead the consumer or user** by*

suggesting that a product or its ingredients satisfy the requirements set out under this Regulation shall not be used.

Descriptions of the organic product and translations of such descriptions are in principle possible. However, please note that as regards the language of the labelling the following legislation shall be respected:

Article 15(1) of the horizontal Regulation (EU) No 1169/2011 of the European Parliament and of the Council in respect of food labelling provides that: "*mandatory food information shall appear in a language easily understood by the consumers of the Member States where a food is marketed.*"

- Article 15(2) of Regulation (EU) No 1169/2011 provides that: "*Within their own territory, the Member States in which a food is marketed may stipulate that the particulars shall be given in one or more languages from among the official languages of the Union*"

- Article 15(3) of Regulation (EU) No 1169/2011 provides that: "*Paragraphs 1 and 2 shall not preclude the particulars from being indicated in several languages*".

6) In the EU do wholesalers dealing only with prepacked products need to be certified organic (bio certificate) in order to sell their products to retailers?

Regulation (EC) No 834/2007 sets out the rules on organic production and the labelling of products which are placed on the EU market as organic. Regulation (EC) No 889/20082 provides further detailed rules.

Distributors and wholesalers of organic products cannot be subject to the exemption from the organic control system. According to Article 28(2) of Regulation (EC) No 834/2007 the exemption from the organic control system can only be granted by Member States to operators (e.g. retailers) which:

- sell organic product directly to the final consumer or user, and
- provided they do not
 - produce, prepare such products, or
 - store the products other than in connection with the point of sale, or
 - import, or
 - have not contracted out such activities (= production, preparation including labelling, storage, import) to a third party.

However, a distributor can be considered as a wholesaler dealing only with prepacked products and therefore, in accordance with Article 27(3) of Regulation (EC) No 834/2007, can be inspected at a frequency less than

once per year provided that is deemed adequate on the basis of a risk assessment in accordance with that Article.

5. PRODUCTION RULES

1) Can I demand to certify as organic a production made with indoor aquaponics systems?

Aquaponics is a type of hydroponics which according to Article 4 of Regulation (EC) N° 889/2008 is a cultivation system which is not allowed in the production of organic plants. Thus, plants produced through aquaponics systems cannot be certified as organic under Regulation (EC) No 834/2007. On the other hand, the use of aquaponics systems for producing aquaculture animals is not prohibited. Therefore, the production of fish in facilities using aquaponics systems could be considered as organic only when done in compliance with the production rules set out in Article 15 of Regulation (EC) No 834/2007 and Articles 25a to 25t of Regulation (EC) No 889/2008. In order to ascertain if it is possible to certify your products as organic you should approach a control body in your Member State.

A list of the control bodies in each Member State is available at:

https://ec.europa.eu/agriculture/ofis_public/r8/ctrl_r8.cfm?targetUrl=home&lang=en

2) Can I use silage additives in organic feed production?

Only silage additives listed in Annex VI to Regulation (EC) No 889/2008 can be used in the processing of organic silage. They can only be used when weather conditions do not allow for adequate fermentation.

3) Can I use milk replacers in organic production?

No. Article 14(1)(d)(vi) of Regulation (EC) No 834/2007 states that "suckling mammals shall be fed with natural, preferably maternal milk". Article 20(1) of Regulation (EC) No 889/2008 states that "All young mammals shall be fed on maternal milk in preference to natural milk, for a minimum period of three months for bovines including *bubalus* and *bison* species and equidae, 45 days for sheep and goats and 40 days for pigs". The legislation does not define natural milk; however, such reference

should be understood as a product closely related to maternal milk on the basis of overall principles of organic farming. Therefore, a product that replaces milk using chemically synthesized components and ingredients of plant origin does not qualify as natural milk.

4) What specific precautions must be observed for cleaning and disinfection of organic food supply systems?

The current EU regulation on organic production does not lay down a specific list of substances authorised in the cleaning of food processing facilities dealing with organic food (the only exception concerns milking facilities: Annex VII of Regulation 889/2008). However, operators have to comply with the rules set out in Article 26(4) (b) of Regulation 889/2008, notably, they have to implement suitable cleaning measures, monitor their effectiveness and record these operations. In addition, any food processing operator has to comply with the "hygiene package" regarding products that are allowed for cleaning and disinfection of food processing facilities and equipment:

http://ec.europa.eu/food/safety/biosafety/food_hygiene_en

5) Which rules are applicable to the production of organic pheasants?

Pheasants can be in the scope of organic legislation even if detailed production rules are not set at EU level. Live animals" are listed in Annex I to the Treaty of the Functioning of the European Union. They therefore constitute agricultural products falling within the scope of Regulation (EC) No 834/2007 under point (a) of Article 1(2) – live or unprocessed agricultural product.

The second subparagraph of Article 42 of Regulation No (EC) 834/2007 provides that *"for certain animal species, certain aquatic plants and certain micro algae, where the detailed production rules are not laid down, the rules provided for labelling in Article 23 and for the controls in Title V shall apply. Pending the inclusion of detailed production rules, national rules or, in the absence thereof, private standards accepted or recognized by the Member States shall apply."*

Therefore, pheasants are covered by the scope of Regulation (EC) No 834/2007.

Pheasants are not mentioned in Article 7 and Annex III of Regulation (EC) No 889/2008. Therefore, the detailed production rules for pheasants are not laid down at EU level. Nevertheless, Article 1(2) of Regulation (EC) No 889/2008 provides that Title II, Title III and Title IV of Regulation (EC) No 834/2007 applies *mutatis mutandis* to such products until detailed production rules for those products are laid down on the basis of Regulation (EC) No 834/2007. As a consequence, in absence of detailed national rules or private standards, an operator producing pheasants on the territory of a Member State has to respect the overall principles of Title II and the (relevant) production rules laid down in Title III of Regulation (EC) No 834/2007 and apply *mutatis mutandis* the detailed production rules laid down in Regulation (EC) No 889/2008. In view of the close link between poultry and pheasants, the specific rules for poultry should apply *mutatis mutandis* to pheasants.

6) What rules do products referred to in Article 42, second subparagraph, have to comply with to be placed on the EU market as organic and to be able to move freely according to Article 34 of Regulation (EC) No 834/2007?

Article 42, second subparagraph, of Regulation (EC) No 834/2007 provides that "For certain animal species, certain aquatic plants and certain micro-algae, where detailed production rules are not laid down, the rules provided for labelling in Article 23 and for controls in Title V shall apply. Pending the inclusion of detailed production rules, national rules or, in the absence thereof, private standards accepted or recognised by the Member States shall apply."

While it is clear from Articles 1, 2, 8, 23 and 34 that the Regulation sets up a harmonised system for products which are covered by the scope of the Regulation and which are produced, labelled, controlled and placed on the market as organic, in which there is no room for mandatory national rules, Article 42, second subparagraph gives Member States for certain products - despite the fact that these products are covered by the scope of Regulation (EC) No 834/2007 and fall therefore under the legal framework of the harmonised rules of this Regulation -, the possibility to adopt national production rules or to accept or recognise nationally private standards.

In addition, in accordance with the second subparagraph of Article 1(2) of Regulation (EC) No 889/2008, Title II, Title III and Title IV of Regulation

834/2007 applies *mutatis mutandis* to such products until detailed production rules for those products are laid down on the basis of Regulation (EC) No 834/2007.

However, it also follows from the above-mentioned Articles that the legislator aimed at a harmonisation at EU level for products ensuring the free movement of goods in the EU. Detailed national rules or accepted/recognised private standards have therefore to respect fully the provisions of Regulation (EC) No 834/2007, including the overall principles of Title II and the (relevant) general production rules laid down in Title III.

Moreover, these detailed national rules or accepted/recognised standards cannot prohibit or restrict the marketing of organic products imported from other Member States. If a product complies with the rules of the Regulation and has been controlled by another control authority or control body located in another Member State, a Member State can therefore not, in addition, impose detailed national production rules or recognised private standards to these products and control compliance with these rules. As a consequence, Article 42, second subparagraph does not allow Member States to impose national rules or nationally accepted or recognised private standards to organic products being imported to their territory from other Member States, when these products comply with Regulation (EC) No 834/2007. As regards compliance with the production rules, this must be understood as referring to the (relevant) production rules in Title III of the Regulation. Three "layers" of rules can be distinguished in this respect:

1. General production rules, which apply to all forms of organic production (Articles 8 to 10) ("layer 1").
2. Production rules for different sectors: general farm production rules (Article 11, 16 and 17) and production rules for specific categories of products (plants, seaweed, livestock, aquaculture animals) and production rules for processed feed (Article 18) and processed food (Article 19, 20 and 21) ("layer 2"), including the rules implementing those provisions.
3. Detailed production rules as referred to in Article 42 ("layer 3").

The production of all products within the scope of the Regulation which are placed on the market as organic has to comply with the general production rules of Articles 8 to 10 ("layer 1"). All products will normally also be covered by the production rules for different sectors ("layer 2")

and have to comply with these rules. For some products, detailed production rules have been laid down which also need to be complied with ("layer 3). Article 42, second subparagraph, addresses specifically the situation of "certain animal species, certain aquatic plants and certain microalgae" for which no detailed production rules have been set at EU level. If a Member State has laid down detailed production rules for these products, these detailed production rules have to be complied with, in addition to the production rules laid down at EU level ("layers 1 and 2"), by operators producing these products on the territory of this Member State. However, when a Member State has not laid down any detailed production rules for these products, operators producing on its territory have to comply only with the production rules laid down in the Regulation ("layers 1 and 2") as there exist no additional national detailed production rules.

All products that comply with Regulation (EC) No 834/2007 benefit from the principle of the free movement of goods laid down in Article 34 of this Regulation. Therefore, Member States cannot impose the additional national detailed production rules under Article 42 on products coming from other Member States complying with Regulation (EC) No 834/2007.

7) Can certain non-organic ingredients such as steviol-glycosydes and medium chain triglycerides (MCT) oil be used in the production of organic chocolate?

According to Article 23(4)(a) of Regulation (EC) No 834/2007, in order to apply the term organic in the sales description of a processed food, as chocolate, at least 95% of the ingredients of agricultural origin must be organically produced. Thus only a maximum of 5% of the agricultural ingredients can be non-organic. Moreover, the processed food has to comply with the general rules on the production of organic processed food set out in Article 19 of the same Regulation.

Moreover, according to Article 19(2)(c) of Regulation (EC) No 834/2007 non-organic ingredients can only be added when they are authorised in accordance with Article 21 which implies a procedure of authorisation from the Commission. Consequently, Article 28 of Regulation (EC) No 889/20082 and its Annex IX set the list of non-organic ingredients that have been authorised and can currently be used in the EU.

In addition, Member States can give provisional authorisations for additional non-organic ingredients to be used under certain restricted conditions as set out in Article 29 of Regulation (EC) No 889/2008.

Steviol-glycosides which derive from plant extract are not listed in any of the annexes. MCT oil is also not mentioned in itself in any of the annexes.

Moreover, MCT oil can have several origins and methods of production and depending on its origin and production method it can, for example, qualify as an authorised non-organic ingredient falling under point 2.1 of Annex IX of Regulation (EC) No 889/2008. *"Fats and oils whether or not refined, but not chemically modified, derived from plants other than cacao, coconut, olive safflower, palm, rape, sesame or soya"*.

Therefore, using Steviol-glycosides and MCT Oil as additive or processing aids in organic products is currently not authorised and thus it is not possible to obtain organic certification for products containing them.

8) Is it possible to produce organic insects in Europe? In particular for feeding organic poultry?

In principle, it is possible but all the species of insects have to be assessed and authorised in compliance with EU food and feed safety horizontal rules.

The production of insects to be used as food is regulated under Regulation (EU) 2015/2283 on novel food, which is applicable since 1 January 2018. All insects must therefore be authorised under that Regulation before they can be placed on the European Union market, including novel foods imported from third countries. According to the transitional measures laid down in Article 35(2) of that Regulation, those Member States that allowed the marketing of insects in their territories before 1 January 2018 can continue to do so until a decision to authorise such products is taken at EU level in accordance with the procedure set out in that Regulation. At the moment there are no species authorised at EU level for food.

The production of insects to be used as feed is also regulated under Regulation (EC) No 999/2001, Regulation (EC) No 183/2005, Regulation (EC) No 767/2009 and Regulation (EU) No 68/2013.

These legal acts regulate the production and use of insects and products derived thereof, in particular processed animal proteins (PAPs) to be used in animal feed.

Currently, products derived from insects, including PAPs originating from farmed insects, can be used in feed only for aquaculture species according to Regulation (EU) No 2017/893. Regulation (EU) No 2017/893 also establishes the list of insect species eligible for the production of processed insect proteins. Furthermore, Regulation (EU) No 2017/893 requires that the insects shall be fed with feed grade substrates. Catering waste or manure are substrates prohibited for insects intended for feed use.

As regards **live insects**, their use is not allowed as feed for ruminants but can be used as feed for non-ruminant animals in accordance with entry

9.16.1 ('Terrestrial invertebrates, live') in Part C of the Annex to Regulation (EU) No 68/2013 and under the responsibility of the feed business operator placing the live insects on the market for their safety and under control of the competent authority in the respective Member State. Therefore, products derived from insects (including processed insect proteins) cannot be used as feed for poultry. On the contrary, live fly larvae could be used as feed for poultry subject to certain conditions as explained above.

With respect to organic farming, live animals (including insects) are agricultural products falling within the scope of Regulation (EC) No 834/2007, under point (a) of Article 1(2) – live or unprocessed agricultural products. In addition, insects fall under the definition of livestock production as set out in Article 2(f) of Regulation (EC) No 834/2007, which states that '*livestock production*' means the production of domestic or domesticated terrestrial animals (including insects). However, at present, no specific rules exist for organic insect production other than bees.

Without prejudice to the rules for (conventional) production of live insects for feed, the general principles and the relevant rules with regard to organic livestock production have to be applied. Also, according to the second subparagraph of Article 1(2) of Regulation (EC) No 889/2008, the detailed production rules laid down in that Regulation apply *mutatis mutandis* on a case-by-case basis when those rules are relevant and fulfil the animal's species needs. According to Article 42 of Regulation (EC) No 834/2007, for certain animal species in the absence of detailed production rules laid down at EU level, national rules, or in absence of these, private standards accepted or recognised by the Member States, should apply. Therefore, Member States have the possibility to lay down detailed production rules for the production of organic live insects such as fly larvae on their territory.

As regards the use of organic live insects as feed, please note that Article 22 of Regulation (EC) No 889/2008 authorises the use of "organic feed material of animal origin" as feeding of organic animals.

9) Can mushroom mycelium be produced organically?

Mushrooms are considered as plants for the purpose of the EU organic legislation. The mycelium is comparable to the vegetative parts of annual or perennial plants; while mushrooms are comparable to the reproductive parts of plants, like flowers and fruits.

The general rules on plant production (Article 12 of Regulation (EC) No 834/2007) and the specific rules regarding substrates to be used for mushroom production (Article 6 of Regulation (EC) No 889/2008) are

applicable. These rules apply to the entire fungal body, therefore including the mycelium and the mushrooms.

The conversion rules for plants and plant products set out in Article 36 of Regulation (EC) No 889/2008 also apply to mushroom organic production. If fungus production (mycelium and mushrooms) is managed as an annual crop on the soil, a conversion period of at least two years is required before "sowing" i.e. the dispersal of spores in the soil/substrate or the grafting of the soil/substrate with mycelium. In case fungus production (mycelium and mushrooms) is managed as a perennial crop on the soil, a conversion period of at least three years has to be applied before the first harvest of organic mushrooms.

10) What can happen in case of contamination of an organic farmland by chemicals used by neighbours operating as conventional farmers?

Regulations (EC) No 834/2007 and No 889/2008 provide for specific production rules and labelling requirements that organic operators have to respect, as well as control requirements to be followed by the authorities performing controls and certification tasks. According to the above legislation, an organic operator has to draw up and subsequently maintain practical measures at the level of the unit and/or premises and/or activity to ensure compliance with the organic production rules as well as the precautionary measures to reduce the risk of contamination by unauthorised products or substances.

However, EU organic legislation does not provide a procedure for resolving claims concerning unintentional contamination from a neighbouring holding. In these cases, a farmer can contact the competent authorities, control bodies or control authorities in its Member State as national laws may apply. When the operator is aware of a contamination, the product should not be marketed as organic.

11) Can organic beekeepers harvest drone larvae for human consumption?

Live animals including drone larvae are listed in Annex I to the Treaty of the Functioning of the European Union. They therefore constitute agricultural products falling within the scope of Regulation (EC) No 834/2007 under point (a) of Article 1(2) – live or unprocessed agricultural products.

As a consequence, a beekeeper producing drone larvae on the territory of a Member State will have to respect the overall principles of Title II and the (relevant) general production rules laid down in Title III of Regulation (EC) No 834/2007 and the detailed production rules for bees laid down in Regulation (EC) No 889/2008.

However, drone larvae can be placed on the EU market as organic food, only after having been authorised in the first place under Regulation (EU) 2015/2283 on novel foods.

12) Can non-organic agricultural ingredients be authorised in organic productions?

Article 19(2)(c) of Regulation (EC) No 834/2007 lays down that non-organic agricultural ingredients can be used only if they have been authorised for use in organic production or have been provisionally authorised by a Member State.

Article 21 of Regulation (EC) No 834/2007 sets out the criteria and procedure for the Commission to authorise non-organic agricultural ingredients in organic production and their inclusion in Annex IX of Regulation (EC) No 889/2008. Based on this provision, only a Member State can submit such a request in the form of a dossier giving the reasons for the inclusion, withdrawal or amendment of the referred Annex. The Commission decides on the authorisation of the products and substances and their inclusion in the restricted list and can lay down specific conditions and limits for their use, and, if necessary, on the withdrawal of products.

The authorisation or withdrawal of non-organic agricultural ingredients by the Commission requires amending Annex IX to Regulation (EC) No 889/2008 and therefore must be agreed upon by Member States in the frame of the Committee on Organic Production.

It is also possible to obtain a provisional authorisation of a non-organic ingredient from a Member State, according to Article 29 of Regulation (EC) No 889/2008. However, certain conditions have to be respected:

- the operator has to notify to the competent authority of the Member State all the requisite evidence showing that the ingredient concerned is indeed an agricultural ingredient and is not produced in sufficient quantity in the European Union in accordance with the organic production rules or cannot be imported from third countries;
- the competent authority of the Member State can provisionally authorise the use of a non-organic agricultural ingredient for a maximum period of 12 months after having verified that the operator has undertaken the necessary contacts with suppliers in the European Union to ensure itself of the unavailability of the agricultural ingredient concerned;

- the Member State concerned can prolong the authorisation a maximum three times for 12 months, which means that the total duration of such an exceptional authorisation cannot be longer than 48 months; and
- no decision has been taken that a granted authorisation with regard to the agricultural ingredient concerned shall be withdrawn.

13) Which fertilisers can be used in organic farming?

According to Article 12(1) of Regulation (EC) No 834/2007, the fertility and biological activity of the soil shall be maintained and increased by multiannual crop rotation including legumes and other green manure crops, and by the application of livestock manure or organic material, both preferably composted, from organic production.

Additionally, fertilisers and soil conditioners can be used only if they are authorised for use in organic production by the European Commission and included in a restricted list of products and substances (Annex I of Regulation (EC) No 889/2008).

Mineral nitrogen fertilisers shall not be used and according to Article 16 of Regulation (EC) No 834/2007, fertilisers in organic farming can be authorised only if they comply with the objectives, criteria and principles of organic production, as established by the organic legislation. The Commission has the possibility to ask the group of experts for technical advice on organic production (EGTOP) for an opinion as to the compatibility of products or substances with the objectives, criteria and principles of organic production. This can be done after a relevant request is submitted to the European Commission by a Member State.

14) Can pyrethrins containing pyperonylbutoxide (PBO) be used in organic farming?

PBO is a synergist and there is no EU positive list of synergists that can be added to plant protection products. The active substances used in plant protection products are authorised at EU level. Regulation (EU) No 540/2011 as amended by Commission Implementing Regulation (EU) No 798/2013 of 21 August 2013 approved pyrethrins as an active substance with a condition to limit its uses as an insecticide.

However, the authorisation of a plant protection product and its conditions of use (including its composition) is a responsibility of the Member States

according to Regulation (EC) No 1107/2009. Thus, whether a plant protection product can contain PBO as a synergist is part of the authorisation given by that Member State. Therefore, whether the use of PBO is possible on the territory of a Member State will depend on the national authorisations allowing the use of plant protection products containing these substances.

With respect to organic: Annex II to Regulation (EC) No 889/2008 sets out the list of active substances authorised in plant protection products in organic farming. Pyrethrins extracted from *Chrysanthemum cinerariaefolium* are listed in Annex II. That means, that plant protection products containing pyrethrins from *Chrysanthemum cinerariaefolium* as an active substance can be used in organic farming as far as they are authorised by the competent authorities where the plant protection products containing them are marketed and used and according to the composition (including the use of synergists) approved by these authorities.

15) Which MRLs apply to organic products?

Article 1(4) of Regulation (EC) No 834/2007 provides that EU organic legislation applies without prejudice to other Union provisions or national provisions. Therefore, all organic products must respect general laws applied to conventional production, including Regulation (EC) No 396/2005 on MRLs of pesticides.

Furthermore, inputs for use in organic farming must be listed in Annex I (fertilisers) and Annex II (pesticides) to Regulation (EC) No 889/2008. Substances listed in these annexes can only be used in so far as the corresponding use is authorised in conventional agriculture in the Member State concerned in accordance with the relevant EU legislation or national provisions in conformity with EU law as established in the second subparagraph of Article 16(1) of Regulation (EC) No 834/2007.

16) Which and how plant protection products are authorised in organic farming?

According to Article 12(1)(h) of Regulation (EC) No 834/2007 plant protection products (PPP) can only be used if they have been authorised for use in organic production under Article 16. Moreover, PPPs can only be used if their active substance is on the list set out in Annex II to Regulation (EC) No 889/2008.

According to the last paragraph of Article 16(1) of Regulation (EC) No 834/2007 "Products and substances contained in the restricted list may only be used in so far as the corresponding use is authorised in general agriculture in the Member States concerned in accordance with the relevant Community provisions or national provisions in conformity with Community law." Thus, authorisation for the use of PPPs is granted nationally and the conditions for use and the composition of the PPP can differ among the Member States. Some Member States cannot authorise the use of the PPP. Nevertheless, when it is used in one or more Member States, residues of the active substance are covered by the EU legislation on Maximum Residue Levels (Regulation 396/2005) and Member States have to accept treated products if these residues are at or lower than the MRL fixed.

In the European Union the authorisation to use and market a PPP is the responsibility of each Member State, while the assessment and approval of the active substances, which are included in PPPs, are carried out at EU level. The list of approved active substances for use in PPPs is set out Regulation (EC) No 1107/2009 and Regulation (EU) No 540/2011. From the active substances authorised at EU level, only those listed in Annex II of Regulation (EC) No 889/2008 can be used in the composition of PPPs to be used in organic production.

17) Is it possible to use insect meal in organic aquaculture?

Since July 2017 it is possible, according to Regulation (EC) No 2017/893, to use processed animal proteins (PAPs) from insects in conventional aquaculture, provided that they are produced according to the requirements established in that Regulation including as regards the feed for the insects (no waste can be used as substrate for the insects).

However, in organic aquaculture it is currently not possible to use insect products as non-organic feed ingredients, because these are not listed as feed in Regulation (EC) No 889/2008. Insects are considered livestock, so in principle, they can be produced organically. In that case they can be used when produced organically under the category "organic feed materials of plant or animal origin" referred to in Article 25k (d) of Regulation (EC) No 889/2008.

In this last case, at present no detailed organic production rules for insects have been developed and approved, either at EU or at national

level. Therefore, currently there are no possibilities to feed organic shrimps or fish with organic or non-organic insect products.

18) Can potassium sorbate be used in enzymes for the organic production of chocolate stuffing?

No. Regulation (EC) No 834/2007 lays down the rules on organic production and labelling of organic products. All organic production products using terms referring to organic production must adhere to this legislation. Regulation (EC) No 889/2007 lays down detailed rules for the implementation of Regulation (EC) No 834/2007.

Article 27 of Regulation (EC) No 889/2008 authorises the use of certain products and substances in processing of food:

(a) substances listed in Annex VIII to this Regulation;

(b) preparations of micro-organisms and enzymes normally used in food processing; however, enzymes to be used as food additives have to be listed in Annex VIII, Section A.

If potassium sorbate is included in an enzyme preparation, it has to be authorised in Sections A of Annex VIII to Regulation (EC) No 889/2008 – food additives or in Section B of the same Annex- *processing aids and other products, which may be used for processing of ingredients of agricultural origin from organic production.*

Potassium sorbate is neither authorised in Sections A of Annex VIII to Regulation (EC) No 889/20083 – food additives - nor in Section B of the same Annex- *processing aids and other products, which may be used for processing of ingredients of agricultural origin from organic production.* Consequently, an enzymatic preparation containing potassium sorbate cannot be used in the production of organic processed food.

19) Can hormones and hormones derivatives be used in organic aquaculture?

No. Article 25(i) of Regulation (EC) No 889/2008 prohibits the use of hormones and hormone derivatives for breeding purposes of all species of aquaculture. As example, in case of organic caviar it has to be produced without using hormones and hormone derivatives.

20) How is the use and possible presence of genetically modified organisms (GMOs) avoided in organic production?

The use of GMOs in organic production is prohibited and as it is stated in recital 10 of Regulation (EC) No 834/2007 that "the aim is to have the lowest possible presence of GMOs in organic products".

According to Article 9(1) of Regulation (EC) No 834/2007, "GMOs and products produced from or by GMOs shall not be used as food, feed, processing aids, plant protection products, fertilisers, soil conditioners, seeds, vegetative propagating material, micro-organisms and animals in organic production."

For the purpose of the prohibition concerning GMOs or products produced from GMOs for food and feed, operators can rely on the labels accompanying a product or any other accompanying document, affixed or provided pursuant to Directive 2001/18/EC, Regulation (EC) 1829/2003 or Regulation (EC) 1830/2003. These labelling thresholds represent ceilings, which are exclusively linked to adventitious and technically unavoidable presence of GMOs.

Operators can assume that no GMOs or products produced from GMOs have been used in the manufacture of purchased food and feed products when the latter are not labelled, or accompanied by a document, pursuant to those Regulations, unless they have obtained other information indicating that labelling of the products in question is not in conformity with those Regulations.

On the basis of the above mentioned legal provisions, no products containing GMOs can be used in organic production, except veterinary products and products whose labels do not indicate the presence of GMOs on the basis of Directive 2001/18/EC, Regulation (EC) 1829/2003 and Regulation (EC) 1830/2003, because the presence is due to adventitious and technically unavoidable presence that is below the labelling threshold of 0,9%.

21) Is the use of sulphites allowed in the production of organic grape juice for direct consumption?

No. Regulation (EC) No 834/2007 on organic production and labelling of organic products applies without prejudice to other Union provisions or

national provisions, in conformity with Union law, such as provisions governing the production, preparation, marketing, labelling and control, including legislation on foodstuffs and animal nutrition.

Regulation (EC) No 1333/2008 on food additives does not allow the use of sulphites (E220 – E 228) in grape juice except for unfermented grape juice for sacramental use and concentrated grape juice for home wine-making, as per point 14.1.2 of Part E of Annex II to that Regulation,

As a result, the use of sulphites (E220 – E 228) cannot be allowed in the organic production of grape juice for a direct consumption.

22) How is animal welfare taken into account in organic productions?

Regulation (EC) 834/2007 sets out the principles, aims and overarching rules of organic production. In accordance with Article 3(a)(iv) of this Regulation, organic production shall pursue the general objective to establish a sustainable management system for agriculture that respects high animal welfare standards and in particular meets animals' species-specific behavioural needs.

Regulation (EC) No 889/2008 lays down detailed rules for the implementation of Regulation (EC) No 834/2007. Specific provisions applying to livestock production are laid down in Chapter 2 on livestock production and Annex III on minimum surface areas indoors and outdoors and Annex IV on maximum number of animals per hectare.

As stated under Article 18(1) of Regulation (EC) No 889/2008, *“operations such as attaching elastic bands to the tails of sheep, tail-docking, cutting of teeth, trimming of beaks and dehorning shall not be carried out routinely in organic farming. However, some of these operations may be authorised by the competent authority for reasons of safety or if they are intended to improve the health, welfare or hygiene of the livestock on a case-by-case basis. Any suffering to the animals shall be reduced to a minimum by applying adequate anaesthesia and/or analgesia and by carrying out the operation only at the most appropriate age by qualified personnel.”*

Please see also the Court judgment C-497/17 on the protection of animals at the time of killing available here:

<http://curia.europa.eu/juris/documents.jsf?num=C-497/17>

The judgment concludes that the placing of the EU organic production logo is not authorised on products derived from animals which have been slaughtered in accordance with religious rites without first being stunned.

23) Is the heating of frozen fully baked bread a 'preparation' according to Article 2(i) of Regulation (EC) No 834/2007 or 'processing' according to point (m) of Article 2(1) of Regulation (EC) No 852/2004, and as such covered by Article 28 (1) in the Regulation (EC) No 834/2007?

According to Article 2(i) of Regulation (EC) No 834/2007, "preparation" means the operations of preserving and/or processing of organic products, including slaughter and cutting for livestock products, and also packaging, labelling and/or alterations made to the labelling concerning the organic production method;

According to Article 2(1)(m) of Regulation (EC) No 852/2004, "processing" means any action that substantially alters the initial product, including heating, smoking, curing, maturing, drying, marinating, extraction, extrusion or a combination of those processes.

According to Article 28(1) of Regulation (EC) No 834/2007, any operator who produces, prepares, stores, or imports from a third country products in the meaning of Article 1(2) or who places such products on the market shall, prior to placing on the market of any products as organic or in conversion to organic:

(a) notify his activity to the competent authorities of the Member State where the activity is carried out;

(b) submit his undertaking to the control system referred to in Article 27.

It follows from the above that preparation operations cover also processing actions such as heating frozen fully baked bread.

Therefore, in accordance with Article 28(1) of Regulation (EC) No 834/2007, a retailer heating bake-off bread has to notify its activity to the competent authorities of the Member State where its activity is carried out and submit its undertaking to the control system on organic production referred to in Article 27 of the same Regulation.

24) Can chicory heads produced by hydroculture be sold as organic products?

No. In accordance with Article 4 of Regulation (EC) No 889/2008, hydroponic production is prohibited in organic plant production. This prohibition results from the fact that hydroponic production, a method of growing plants with their roots in a nutrient solution only or in an inert medium to which a nutrient solution is added, is not in line with the

overall principle of land-related crop cultivation of organic production laid down in Article 4(a)(ii) of Regulation (EC) No 834/2007.

25) Can a potential new technology for producing low cost nitrogen fertilisers be used in organic farming?

According to Article 12(1) of Regulation (EC) No 834/2007, the fertility and biological activity of the soil shall be maintained and increased by multiannual crop rotation including legumes and other green manure crops, and by the application of livestock manure or organic material, both preferably composted, from organic production. Additionally fertilisers and soil conditioners can be used only if they are authorised for use in organic production by the Commission and included in a restricted list of products and substances (Annex I of Regulation (EC) No 889/2008). Finally, mineral nitrogen fertilisers are prohibited.

According to Article 16 of Regulation (EC) No 834/2007, fertilisers in organic farming can be authorised provided they comply with the objectives, criteria and principles of organic production, as established by the organic legislation. The Commission has the possibility to ask the group of experts for technical advice on organic production (EGTOP) for an opinion as to the compatibility of products or substances with the objectives, criteria and principles of organic production. This can be done after a relevant request is submitted to the European Commission by a Member States

However, the organic legislation does not provide for the possibility to authorise or test new technologies. Therefore, a possible authorisation would be on the final product and not on the specific technology, which has in any case to be in line with the organic legislation.

26) Can plant proteins from wheat, peas or potatoes be used for the clarification of fruit juices?

Regulation (EC) No 834/2007 sets out the general organic food production rules. These general rules are further detailed by Regulation (EC) No 889/2008.

This legal framework is based on the principle of promotion of a maximum use of natural methods and inputs, which are integral to the production system; the use of external inputs is restricted and subject to authorisation (Article 6(b) of Regulation (EC) No 834/2007).

Accordingly, Article 19(2)(b) of Regulation (EC) No 834/2007 states that "only additives, processing aids, flavourings, water, salt, preparations of micro-organisms and enzymes, minerals, trace elements, vitamins, as well as amino acids and other micronutrients in foodstuffs for particular

nutritional uses can be used, and only in so far as they have been authorised for use in organic production in accordance with Article 21 of Regulation (EC) No 834/2007.

Specifically, according to Article 27(1) of Regulation (EC) No 889/2008 the processing aids can only be used for processing of organic food, if listed in Annex VIII Section B to Regulation (EC) No 889/2008. Currently, the use of plant proteins from wheat, peas or potatoes for clarification of fruit juices is not listed in Annex VIII Section B.

The use of plant proteins from wheat, peas or potatoes for clarification of fruit juices in organic production must be examined to see if it is in line with the objectives and principles of organic production. For this purpose, a request must be sent by a Member State; this request is then evaluated by the Expert Group for Technical Advice on Organic Production (EGTOP). Should EGTOP provide a positive advice on the use of the use of plant proteins from wheat, peas or potatoes for the clarification of fruit juices, the Commission can propose to the Committee on organic production to add this in Annex VIII section B to Regulation (EC) No 889/2008.

27) Which food additive can be used in organic fresh fruit and vegetables?

In the EU, only food additives that are included in Annex II to Regulation (EC) No 1333/2008 can be placed on the market and used in foods under the conditions of use specified therein. That legislation neither distinguishes between organic and conventional food production nor defines 'ecological' or "organic" food additives. As regards the use of food additives in unprocessed foods, food additives shall not be used in unprocessed foods, except where such use is specifically provided for in the above-mentioned Annex II. In that Annex II, food category 04.1 covers unprocessed fruit and vegetables; 'unprocessed food' is further defined in Article 3(2)(d) of Regulation (EC) No 1333/2008. Only the additives mentioned in that food category and/or subcategories can be used in foods under the conditions of use specified therein (column 'Restrictions/exceptions').

In addition, according to Article 19(2)(b) of Regulation (EC) No 834/2007 only authorised additives can be used in organic food production. In particular, only substances listed in Section A of Annex VIII to Regulation (EC) No 889/2008 can be used as additives in organic food production. None of the substances listed therein is authorised as an additive to be used in fresh fruit and vegetables.

For more targeted information on organic production, please contact the competent authority of your Member State. A list of the EU competent authorities in each Member State is available at:

https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/becoming-organic-farmer/organics-country_en

28) Which is the status of Maximum residues levels (MRLs) for Dichlorodiphenyltrichloroethane (DDT) in animal fat from certified organic animals?

MRLs are set under Regulation (EC) No 396/2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin, and apply to all concerned commodities, with no differentiation between organic and conventional production.

There is no list of specific MRLs set for organic products at EU level.

In the case of DDT, this substance is not authorised in the EU for plant protection, but its persistency in the environment led to the necessity to set MRLs on the basis of a comprehensive consumer risk assessment.

You can find all MRLs set in the European Union including those set in animal fat at this web address:

https://ec.europa.eu/food/plant/pesticides_en

29) Can steviol glycosides (E960) be used as food additive in organic production?

Article 19 of Regulation (EC) No 834/2007 lays down the rules on the production of processed food and in its second paragraph provides that "only additives, processing aids, flavourings, water, salt, preparations of micro-organisms and enzymes, minerals, trace elements, vitamins, as well as amino acids and other micronutrients in foodstuffs for particular nutritional uses can be used, and only in so far as they have been authorised for use in organic production in accordance with Article 21".

Annex VIII of Regulation (EC) No 889/2008 lays down a restrictive list of food additives approved for use in the processing of organic food.

In 2012, pursuant to Article 21 of Regulation (EC) No 834/2007, certain Member States requested the inclusion of steviol glycosides in that Annex VIII and such request was published on the following website:

https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/farming/documents/requests-annex-viii-ix_en.pdf

It was evaluated by the independent Expert Group for Technical advice on Organic Production (EGTOP). A report which includes the evaluation of steviol glycosides was published on the following website:

https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/farming/documents/final_report_egtop_on_organic_food_en.pdf

EGTOP found steviol glycosides not to be in line with the principles of the organic regulation and therefore, Annex VIII of Regulation (EC) No

889/2008 was not amended to include such compound. This decision was shared with the Committee on organic production.

Consequently, steviol glycosides are not authorised for use in organic food processing and a product with this substance cannot be labelled as organic.

30) Can natural flavourings be used in organic food production?

Article 19 of Regulation (EC) No 834/2007 sets out the general rules on the production of processed food. Flavourings can be authorised for the use in organic production pursuant to Articles 19(2)(b) and 21 of Regulation (EC) No 834/2007. According to Article 27(1)(c) of Regulation (EC) No 889/2008 "*substances, and products as defined in Articles 1(2)(b)(i) and 1(2)(c) of Council Directive 88/388/EEC (15) labelled as natural flavouring substances or natural flavouring preparations, according to Articles 9(1)(d) and (2) of that Directive*" can be used in the processing of organic food. Thus, natural flavourings are authorised in organic production if they fall under the referred definitions and fulfil the requirements of Directive 88/388/ECC (or now Regulation (EC) No 1334/2008).

Article 23(4)(a) of Regulation (EC) No 834/2007 states that processed food can be labelled as organic if the product complies with Article 19 and that at least 95% by weight, of its ingredients of agricultural origin are organic.

For the purpose of the calculation above, Article 27(2)(b) of Regulation (EC) No 889/2008 specifies that "preparations and substances referred to in paragraph (1)[...],(c)" i.e. natural flavourings "**shall not be calculated as agricultural ingredients**". Therefore, natural flavouring substances or natural flavouring preparations are not ingredients of agricultural origin for the purpose of calculating the 95% rule above.

31) Can ozone be used as soil disinfectant in organic production?

According to Article 12(1)(j) of Regulation (EC) No 834/2007 products for cleaning and disinfection in plant production shall be used only if they have been authorised for use in organic production under Article 16.

According to Article 16(1)(f) the Commission shall authorise products and substances to be used in organic farming as products for cleaning and disinfection of buildings and installations used for plant production, including storage on an agricultural holding. However, no substances have been approved for this purpose to date.

According to Article 95(6) of Regulation (EC) No 889/2008, pending the inclusion of authorised substances for the purpose of cleaning and

disinfection in plant production, only products authorised by the competent authorities can be used.

32) Do Regulation (EC) No 834/2007 and Regulation (EC) No 889/2008 apply to rabbits and rabbits' meat?

Organic rabbits and organic rabbit meat are covered by the scope of Regulation (EC) No 834/2007; notably by Article 1(2)(a) of Regulation (EC) No 834/2007 "live or unprocessed agricultural products" and Article 1(2)(b) "processed agricultural products for use as food".

Regulation (EC) No 889/2008 provides in its Article 1(2) that:

"This Regulation shall not apply to:

(a) livestock species other than those referred to in Article 7;"

Article 7 of Regulation (EC) No 889/2008 refers to bovine including *bubalus* and bison, equidae, porcine, ovine, caprine, poultry (species as mentioned in Annex III) and bees.

Rabbits are not mentioned in Annex III. Therefore, Regulation (EC) No 889/2008 does not lay down detailed production rules for rabbits. Nevertheless, Article 1(2) of Regulation (EC) No 889/2008 provides that: "Title II, Title III and Title IV shall apply *mutatis mutandis* to such products until detailed production rules for those products are laid down on the basis of Regulation (EC) No 834/2007".

Hence, both Regulations with their requirements apply to rabbits and rabbits' meat. In particular, the general production rules, from Articles 8 to 11, the production rules for livestock (Article 14), the rules for farm production (such as Articles 16 and 17) and, where appropriate, for processed food (Article 19 and 21), as well as all other rules, including on labelling and on controls are of importance for rabbits and rabbit meat.

For processed organic rabbit meat for use as food, the provisions of Chapter 3 of Title II and of Chapter 4 of Title II where applicable and of Titles III and IV of Regulation (EC) No 889/2008 are also of importance.

Moreover, Article 42, 2nd paragraph, of Regulation (EC) No 834/2007 provides that:

"For certain animal species, certain aquatic plants and certain micro algae, where the detailed production rules are not laid down, the rules provided for labelling in Article 23 and for the controls in Title V shall apply. Pending the inclusion of detailed production rules, national rules or, in the absence thereof, private standards accepted or recognised by the Member States shall apply."

Since no detailed production rules have been laid down for rabbits as explained above, national rules or private standards recognised by Member States can provide for detailed production rules for these animal species on the basis of Article 42, of Regulation (EC) No 834/2007.

Detailed national rules or accepted/recognised standards cannot prohibit or restrict the marketing of organic products imported from other Member States. Therefore, if a product complies with the rules of the Regulation and has been controlled by another control authority or control body located in another Member State, a Member State cannot, in addition, impose such detailed national productions rules or recognised private standards to these products and control compliance with these rules.

Furthermore, Article 25 of Regulation (EC) No 834/2007 provides that:

"1. The Community organic production logo may be used in the labelling, presentation and advertising of products which satisfy the requirements set out under this Regulation."

On the basis of Article 42 of Regulation (EC) No 834/2007, the EU organic logo can be used by operators if they respect the requirements of Regulation (EC) No 834/2007 and Regulation (EC) No 889/2008.

33) Can rodenticides be used in organic production?

According to Article 16(1)(a) of Regulation (EC) No 834/2007 only authorised products and substances (contained in a restricted list) can be used for the purpose of plant protection products in organic farming. Moreover, such products and substances can only be used in so far that corresponding use is authorised in general agriculture in the respective Member State.

Article 5 of Regulation (EC) No 889/2008 provides that only products listed in Annex II to that Regulation can be used in organic production for the protection of plants from pests and diseases. Annex II of that Regulation sets out a list of "active substances" authorised for use in organic farming for the purpose of plant protection products.

Although no individual rodenticides are specifically mentioned on that list, the group of substances called "basic substances" can be used as rodenticides provided that such use is authorised at Member State level for general agriculture.

34) Can chemical substances be used in steam processing of foods such as oat flakes?

Article 1(4) of Regulation (EC) No 834/2007 states that "*this Regulation shall apply without prejudice to other community provisions or national provisions, in conformity with Community law concerning products specified in this Article, such as provisions governing the production, preparation, marketing, labelling and control, including legislation on foodstuffs and animal nutrition*". Thus, the maintenance of steam processing equipment for the production of food has to comply with requirements of food law, among others, with the food hygiene Regulation (EC) No 853/2004, the food contact material Regulation (EC) No

1935/2004 and the Contaminants Regulation (EC) No 315/1993. Please note in particular point 5 of Chapter VII relating to water supply of Regulation (EC) No 852/2004 which states that "*steam used directly in contact with food is not to contain any substance that presents a hazard to health or is likely to contaminate the food*". Note also that point 3 of Chapter V on equipment requirements of Regulation (EC) No 852/2004 states that "*where chemical additives have to be used to prevent corrosion of equipment and containers, they are to be used in accordance with good practice.*"

35) Can non-organic animals be brought into an organic farm for breeding purpose?

Article 9 of Regulation (EC) No 889/2008 in accordance with Article 14(1)(a)(ii) of Regulation (EC) No 834/2007 sets out the possibility of bringing a limited number of non-organic animals onto a farm for breeding purposes subject to the conditions provided for in paragraphs 2 to 5 of the same Article.

Paragraph 3 of Article 9 restricts the number of non-organic female mammals that might be brought into a holding for the renewal of a herd or flock to the following: (a) up to a maximum of 10 % of adult equine or bovine, including bubalus and bison species, livestock and 20 % of the adult porcine, ovine and caprine livestock, (b) for units with less than 10 equine or bovine animals, or with less than five porcine, ovine or caprine animals any renewal as mentioned above shall be limited to a maximum of one animal per year. The distinction between a) and b) units/farms is made in this paragraph for the purpose of renewal of a herd or flock.

The fourth paragraph of the same Article states that "the percentages referred to in paragraph 3 may be increased up to 40 %, subject to prior authorisation by the competent authority" in four situations. These four situations differ from the renewal of a herd or flock, to which no distinction is made on the size of the unit or number of animals.

Therefore, in view of the fact that paragraph 4 refers to paragraph 3 in its entirety and not to a specific letter a) or b), and for the reasons above, it is possible to increase up to 40% both for a) and b) units, in the special cases described in paragraph 4, for the purpose of breeding animals.

36) Can tap water be used in organic productions?

The use of water in organic production is authorised in accordance with Articles 19(1)(b) and Article 21 of this regulation.

According to Article 27(1)(e) of Regulation (EC) No 889/2008 and Annex VIII Section B of the same regulation water is authorised in the processing

of organic food with the specific condition that it is "*drinking water within the meaning Council Directive 98/83/EC*" of 3 November 1998.

37) *Can cows be tethered for a limited period during milking under organic rules?*

Article 14(1)(b)(vi) of Regulation (EC) No 834/2007 provides that "tethering or isolation of livestock shall be prohibited, unless for individual animals for a limited period of time, and in so far as this is justified for safety, welfare or veterinary reasons".

38) *Can ionising radiation be used on organic production?*

No. The use of ionising radiation for the treatment of organic food or feed, or of raw materials used in organic food or feed, is prohibited in accordance with Article 10 of Regulation (EC) No 834/2007. The ban covers organic products manufactured in the EU and products imported from outside the EU.

'Ionising radiation' is radiation as defined by Council Directive 96/29 as written in Article 2(z) of Regulation 834/2007.

39) *Can Ethylenediaminetetra-acetic acid (EDTA) be used as feed additive in poultry feedingstuff?*

No. The feed additives that can be used in organic production, in accordance with Articles 22(g), 24(2) and 25m (2) of Regulation (EC) No 889/2008, are listed in Annex VI of that Regulation. EDTA cannot be used as it is not approved in that list.

40) *Can the product *matrina* be used in organic production?*

No. According to Article 3(1)(a) of Regulation (EC) No 889/2008 it is only possible to use fertilisers and soil conditioners listed in Annex I of Regulation (EC) No 889/2008, and these can only be used in organic production to the extent necessary. The use of *matrina* or its similar compounds as plant protection products is not allowed in organic farming because these substances are not approved under Regulation 1107/2009 on placing of plant protection products on the market and not included into Annex II of Regulation (EC) No 889/2008.

Before a fertiliser/soil conditioner or plant protection product can be authorised for use in organic farming, it must be authorised in conformity with EU laws, and based on the request of a Member State, it should be evaluated by EGTOP. After a positive advice by EGTOP, the substance can be included in Annex II of Regulation (EC) No 889/2008 or II of Regulation (EC) No 889/2008.

41) Which are the criteria for qualifying eggs as organic?

First and foremost, egg farmers must adhere to the principles of organic farming and respect the rules and requirements of Regulation (EC) No 834/2007 and Regulation (EC) No 889/2008.

To be certified as organic, all the rules relating to organic livestock production in general and to organic poultry production in particular that are laid down in Regulations (EC) No 834/2007 and (EC) No 889/2008 will have to be complied with. Organic farms have to undergo a conversion period, before they can sell their products as organic. The land, the animals and their products can be deemed organic after compliance with this conversion period. The length of the conversion period is fixed in the above mentioned legislation and depends on the way in which this conversion is conducted.

As organic farming is soil related, you will need to respect the requirements regarding land attached to the egg production. This can involve acquiring or renting agricultural land. The size of the area depends on the requirements that are fixed for laying hens. For all animals, the stocking density cannot lead to exceeding the maximum excretion limit of 170 kg of nitrogen per year and per ha which is equivalent to 230 laying hens per hectare (or a figure fixed by the national competent authority).

In Articles 10 and 12 of Regulation (EC) No 889/2008, there are specific rules on housing conditions and husbandry practices for livestock and for poultry including laying hens, in particular, Annex III to Regulation (EC) No 889/2008 fixes the minimum surface area indoors and outdoors for the different species and types of production. In particular, for laying hens, the limit for the outdoors area is four m² per head (provided that the above-mentioned limit of 170 kg of N/ha/year is not exceeded).

There is a limit on the number of animals in a poultry house: 3000 for laying hens. The indoors area is limited to 6 animals per m², 18 cm of perch per animal and 7 laying hens per nest or, in the case of a common nest, 120 cm² per bird.

Regarding access to open-air areas, Article 14(5), (6) and (7) of Regulation (EC) No 889/2008 says the following:

"5. Poultry shall have access to an open air area for at least one third of their life.

6. Open air areas for poultry shall be mainly covered with vegetation and be provided with protective facilities and permit fowl to have easy access to adequate numbers of drinking and feeding troughs.

7. Where poultry are kept indoors due to restrictions or obligations imposed on the basis of Community legislation, they shall permanently have access to sufficient quantities of roughage and suitable material in order to meet their ethological needs."

There are requirements relating to feed. For instance, Article 19(2) of Regulation (EC) No 889/2008 reads as follows for poultry: "... 2. In case of pigs and poultry, at least 20 % of the feed shall come from the farm unit itself or in case this is not feasible, be produced in the same region in cooperation with other organic farms or feed business operators...."

The above mentioned selection of rules is not exhaustive but shows some of the requirements that organic egg farmers have to comply with.

In order to be certified organic, in addition to the "organic" rules relating to poultry production in general, all the other general requirements regarding production of laying hens also have to be respected: animal welfare, food safety.

Before starting the organic activity, we would advise you to contact the competent agricultural authority in the country where you intend to carry out your egg production because they can provide information on which support measures are available and give advice in general. The list of competent authorities is available here:

https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/becoming-organic-farmer/organics-country_en

6. TRADE AND THIRD COUNTRIES

1) What rules do products referred to in Article 42, second subparagraph, (animals, aquatic plants and microalgae) which fall within the scope of Regulation (EC) No 834/2007, have to comply with to be imported to the EU as organic?

Products imported from third countries can be placed on the EU market as organic if:

(a) all requirements of Regulation (EC) No 834/2007 have been met and the product has been subject to a control by a recognised control authority or control body (Article 32) ("compliance regime"); or

(b) the product has been produced and controlled in accordance with production rules equivalent to those in Regulation (EC) No 834/2007 (Article 33). For that purpose, the Commission can either recognise the equivalence of the system of production of a third country as a whole (Article 33(2)), or recognise control authorities or bodies which apply equivalent standards (Article 33(3)) ("equivalence regime").

Once a product can be imported and placed on the market in the EU as organic, it can bear the EU logo according to Article 25 and can circulate freely in the EU internal market as provided for in Article 34.

As regards production rules, a product can be imported into a Member State as organic under the "compliance regime" of option (a) if, in the absence of detailed EU production rules, the general production rules and the production rules for different sectors ("layers 1 and 2") are complied with.

Under the "equivalence regime" of option (b), the equivalence of rules needs to be assessed. According to Article 2(x) of Regulation (EC) No 834/2007, 'equivalent', in describing different systems or measures, means 'that they are capable of meeting the same objectives and principles by applying rules which ensure the same level of assurance of conformity'.

The assessment of equivalence for products for which no detailed rules have been set at EU level, needs to be carried out as regards the

equivalence with the general production rules and the production rules for different sectors ("layers 1 and 2").

Once it is recognised that a third country or a control authority or control body in a third country applies equivalent standards, the import of these products cannot be subjected to further rules and controls in a Member State having detailed national production rules in place on the basis of Article 42.

2) How can organic products be imported in the EU?

Regulation (EC) No 1235/2008 contains detailed rules concerning imports of organic products from third countries. Importers can have their organic products certified for imports into the EU by independent private control bodies approved by the European Commission. A list of approved control bodies in Annex IV of the above-mentioned Regulation is available here:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1552495761919&uri=CELEX:32008R1235>

All products must be accompanied by a certificate of inspection, which is checked upon entry into the EU. The model for such a certificate can be found at the following link:

https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/trade_en#certification

Further information on how to import organic products into the EU can be found at the following link:

https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/trade_en#importingorganicproduce

3) Does a company in a third country, which intends to export only prepacked organic products to the European Union (EU) need organic certification?

Article 2(b) of Regulation (EC) No 834/2007 provides that: "...

(b) 'stages of production, preparation and distribution' means any stage from and including the primary production of an organic product up to and including its storage, processing, transport, sale or supply to the final

consumer, and where relevant labelling, advertising, import, export and subcontracting activities;..."

Article 33 (1) of Regulation (EC) No 834/2007 provides that a product imported from a third country can also be placed on the Community market as organic provided that: "...

(c) the operators at all stages of production, preparation and distribution in the third country have submitted their activities to a control system recognised in accordance with paragraph 2 or to a control authority or control body recognised in accordance with paragraph 3;

..."

Therefore, an exporter in a third country who exports organic products to the EU, has to submit his/her activities to a control system in accordance with Regulation (EC) No 834/2007.

APPENDIX LEGISLATION REFERENCES

- Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.07.2007, p. 1-23)
- Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ L 250, 18.9.2008, p. 1)
- Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries (OJ L 334, 12.12.2008, p.25)
- Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 031 1.2.2002, p.1)
- Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (O. J. L 304 of 22.11.2011, p 18)
- Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC, (OJ L 309 24.11.2009, p. 1)
- Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1)

- Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009 (OJ L 181, 29.6.2013, p.35)
 - Commission Directive 2006/125/EC of 5 December 2006 on processed cereal-based foods and baby foods for infants and young children (OJ L 339, 6.12.2006, p.16)
 - Directive 2009/39/EC of the European Parliament and of the Council of 6 May 2009 on foodstuffs intended for particular nutritional uses (OJ L 124, 20.05.2009, p. 21)
 - Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms (OJ L 106, 17.4.2001, p.1)
 - Regulation (EC) N° 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed, Article 12(2) (OJ L 268, 18.10.2003, p. 1)
 - Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC (OJ L 268, 18.10.2003, p. 24)
 - Commission Implementing Regulation (EU) 2018/1584 of 22 October 2018 amending Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ L 264, 23.10.2018)
 - Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (OJ L 127, 29.4.2014 p.1)
- Commission Regulation (EU) 2017/893 of 24 May 2017 amending Annexes I and IV to Regulation (EC) No 999/2001 of the European Parliament and of the Council and Annexes X, XIV and XV to Commission Regulation (EU) No 142/2011 as regards the provisions on processed animal protein (OJ L 138, 25.5.2017, p.1)

- Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption (*OJ L 330, 5.12.1998, p. 32*)
- Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods, amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council and repealing Regulation (EC) No 258/97 of the European Parliament and of the Council and Commission Regulation (EC) No 1852/2001 (*OJ L 327, 11.12.2015, p. 1*)
- Regulation (EC) 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (*OJ L 139, 30.04.2004, p. 1*)
- Regulation (EC) 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC (*OJ L 338, 27.10.2004, p. 4*)
- Council Regulation No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food (*OJ L 37, 13.02.1993, p. 1*)