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COVER NOTE

From: Committee of the Regions
date of receipt: 14 January 2015
To: General Secretariat of the Council

Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on organic production and labelling of organic products, amending Regulation (EU) No XXX/XXX of the European Parliament and of the Council [Official controls Regulation] and repealing Council Regulation (EC) No 834/2007
[doc. 7956/14 AGRILEG 71 CODEC 841 - COM(2014) 180 final]
COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Action Plan for the future of Organic Production in the European Union
[doc. 8194/14 AGRILEG 78 CODEC 910 - COM(2014) 179 final]
- Opinion¹ of the Committee of the Regions

Delegations will find attached the above-mentioned document.

¹ translations of this opinion are available at the following address: <http://coropinions.cor.europa.eu>



Committee of the Regions

NAT-V-039

109th plenary session, 3-4 December 2014

OPINION

Policy package on organic production

THE COMMITTEE OF THE REGIONS

- endorses the objectives set by the Commission for organic production: removing obstacles to the sustainable development of organic production, promoting the efficient development of the single market and ensuring fair competition for farmers and market participants and maintaining or increasing consumer confidence in organic products;
- expresses its preference for the policy option explored by the Commission of improving the status quo on the basis of improvements to, and more effective implementation of, the existing legislation;
- notes that the Commission has in fact opted for a radical change to the law, with standards being tightened and all flexibility being removed;
- believes that the integrity of entrepreneurs is the basis for sustainable growth and consumer confidence. Integrity cannot be enforced solely by tightening the rules. The more stringent rules directly impact the continuity of the sector;
- recommends leaving the option of parallel production open;
- is not in favour of moving from a system of best efforts obligation to an obligation to achieve results by introducing in Article 20 a threshold for non-authorised substances in organic products;
- recommends that the delegated acts in Chapter III, Production rules, be developed as part of the main text in order to give the CoR the opportunity to express a view on this essential part of the rules;
- is disappointed with the action plan for three reasons. First, it has no specific objective. Secondly, the plan has no budget of its own. Thirdly, the local and regional dimension is missing even though it is mentioned in the general principles of organic production and even though local and regional authorities are directly involved in the development of organic farming as co-financiers of rural development programme measures;
- recommends that a platform be established to supervise and evaluate the action plan. The platform would promote and evaluate the implementation of the action plan and advises the Commission to establish targets for the action plan to ensure that the platform can perform its task in an effective and efficient way.

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Reference documents

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Action Plan for the future of Organic Production in the European Union
COM(2014) 179 final

Proposal for a Regulation European Parliament and of the Council on organic production and labelling of organic products, amending Regulation (EU) No XXX/XXX of the European Parliament and of the Council [Official controls Regulation] and repealing Council Regulation (EC) No 834/2007
COM(2014) 180 final

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Opinion of the Committee of the Regions – Policy package on organic production

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

Objectives of the policy package

1. endorses the objectives set by the Commission for organic production: removing obstacles to the sustainable development of organic production, promoting the efficient development of the single market and ensuring fair competition for farmers and market participants and maintaining or increasing consumer confidence in organic products;
2. recommends improvements to the existing Regulation (EC) No 834/2007 on organic production and labelling of organic products. Although steadfast in its commitment to pursuing the principles of organic farming, the CoR expresses its preference for the policy option explored by the Commission of improving the status quo on the basis of improvements to, and more effective implementation of, the existing legislation. The CoR notes, however, that the Commission has in fact opted for a radical change to the law, with standards being tightened and all flexibility being removed. The CoR believes that the integrity of entrepreneurs and the production system, together with its adaptation to differing agricultural climatic conditions and levels of development in the various EU regions are the basis for sustainable growth and consumer confidence. This is why integrity cannot be enforced solely by tightening the rules. The more stringent rules directly impact the continuity of the sector. The Commission believes that this effect will be temporary but the CoR considers that there is little evidence to support this view and, until an assessment shows it to be right, prefers the evolutionary option - improving the existing regulation - over the proposed revolutionary option of radical change to the law;
3. notes with approval that the Commission has drawn up an action plan for the transition to the new legal framework. However, the CoR is disappointed with the action plan for three reasons. First, it has no specific objective in the form of a target for expansion of the sector. Secondly, the plan has no budget of its own, except the EAFRD budget. This is limited and there is a danger that a large part of the available money will have to be used for the compensation arrangements (residue requirement) set out in Article 20. Thirdly, the local and regional dimension is missing even though it is mentioned in the general principles of organic production set out in Article 4g) of the draft regulation. The CoR regards this as a missed opportunity, as local and regional authorities are directly involved in the development of organic farming as co-financiers of rural development programme measures and calls for this action plan to be strengthened and better financed;

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Subsidiarity and proportionality

4. Some proposed measures, notably the removal of the possibility for Member States to grant exceptions, raise concerns from a subsidiarity viewpoint since it is questionable whether they are necessary to achieve the intended objectives and provide a clear benefit. Moreover, the proposal goes further than necessary; the wholesale review of the existing legislation is premature and too far-reaching and presents a potential breach of the principle of proportionality since there are other less restrictive ways to achieve the desired results. The above concerns have been highlighted in the subsidiarity consultation carried out by the Committee of the Regions¹.

Structure of the regulation

5. recommends that the delegated acts in Chapter III, Production rules, be developed as part of the main text in order to give the CoR the opportunity to express a view on this essential part of the rules.

The rules consist of a single regulation, plus appendices covering specific production rules. The regulation consists of 45 articles, of which 29 cover delegated acts. The CoR is not empowered to assess delegated acts. These occur in all parts of the regulation. The 13 delegated acts relating to production rules in particular are of essential importance for the continuity of the organics sector at local and regional level. Article 290 TFEU states that the essential elements of an area shall be reserved for the legislative act and accordingly shall not be the subject of a delegation of power. The structure of the regulation is thus at odds with the basic principles of the TFEU;

6. recommends that the proposal be dealt with together with proposal for a regulation on official controls. Controls on organic production and labelling rules are developed in the proposal for a regulation on official controls. In its opinion on this regulation the CoR objected to the Commission's power to adopt delegated acts for specific rules for the implementation of official controls. The CoR pointed out that it is essential for all provisions with a substantial impact on control activities and the budgets of the Member States to be included directly in the regulation;

Subject matter, scope and definitions

7. advocates clearly defining the scope of control and production rules, which should apply until the organic product has been packaged, labelled and made available to the end consumer in tamper-resistant packaging or, where appropriate, when marketed in bulk, removed from its

¹ Consultation of the Subsidiarity Monitoring Network and the Subsidiarity Expert Group, which ran from 16 April to 26 May 2014. Report available at: [http://portal.cor.europa.eu/subsidiarity/Observations2014/COM%20\(2014\)%20180%20860ec890ecc54e2dbf32defbd5e433c4/Report%20consultation%20Organic%20farming.pdf](http://portal.cor.europa.eu/subsidiarity/Observations2014/COM%20(2014)%20180%20860ec890ecc54e2dbf32defbd5e433c4/Report%20consultation%20Organic%20farming.pdf).

original packaging or in packaging that is not tamper-resistant until it is marketed to the end consumer;

8. recommends that the definition of "group of operators" in Article 3 also be based on the regional definition of the concept of "small farmer", on the basis of turnover. The Commission defines the concept of "group of operators" in order to alleviate the administrative burden on individual small farmers. The CoR acknowledges the Commission's intention but cannot endorse a definition of "small farmers" based solely on the number of hectares of utilised agricultural area; 5 ha of glasshouse horticulture is considered large-scale, whereas 5 ha of upland pasture is small-scale;

The production rules

9. recommends leaving the option of parallel production open. With Article 7(1)(a) on general production rules, the Commission puts an end to the existing practice of combined organic and conventional farming. Around one quarter of organic farms in Europe produce both conventional and organic products. Parallel-production farms as a whole are overseen by the supervisory authorities for organic farming. The CoR believes that this mixed production is good for the interaction between organic and conventional farming and contributes to sustainability and innovation in agriculture. The CoR fears that the prohibition on parallel production will lead to the disappearance of some organic producers or cause them to resort to legal vehicles (split production) designed to circumvent this rule;
10. calls for agreements with breeders and producers on a realistic period for the transition to the 100% organic reproductive material rule. The Commission is abolishing various exceptions to the rules and in Articles 10, 11 and 12 proposes that only organic reproductive material may be used for the production of plants, plant products, livestock and seaweed and aquaculture animals. In many regions this is by no means the case as there is insufficient organic reproductive material available. The Commission therefore provides for a transitional period to 31 December 2021. The CoR believes that this period will not be realistic unless it is backed up by specific support measures and calls for this deadline to be assessed in 2019 to ensure that it does not lead to a lack of reproductive material and a loss of production;
11. recommends that the rules for the inclusion of organic varieties in the official list be adapted before the exceptions for the use of seed are abolished. In its opinion on *Agricultural genetic resources – from conservation to sustainable use* (CdR 2014/1277 fin), the CoR notes that the rules on the inclusion of varieties in the official list are not geared to organic seed. The CoR believes that the new proposal for a Regulation on the production and making available on the market of plant reproductive material should offer an opportunity to certify organic seed on the basis of criteria which are geared to organic farming;
12. notes that the Commission is moving from a system of best efforts obligation to an obligation to achieve results by introducing in Article 20 a threshold for non-authorised substances in

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organic products. The CoR is not in favour of a separate system of obligation to achieve results for the organics sector and believes that all European foodstuffs should comply with the same food safety rules;

13. if a threshold for non-authorised substances in organic products were to be introduced in the longer term, the rules by which producers would be compensated by the Member States for past losses would need to be clarified in advance. It is almost impossible for organic farmers to prevent their products from containing residues if their neighbours using conventional methods do not take precautions to prevent possible contamination. The CoR believes that the cost of decertification damage of this kind should not be borne by the organic producer or the local or regional authorities. On the basis of the proposal for a regulation Member States are allowed to make national payments to farmers using CAP instruments in order to compensate them for past losses. The Commission does not, however, give any details on the budgetary consequences of this measure, as the compensation rules are not clear;

Trade with third countries

14. notes that the Commission is proposing a system whereby the equivalence principle for trade with third countries is dealt with as part of trade agreements. Comparison of control measures and production rules would thus become part of a trade agreement. The CoR considers this insufficiently transparent and possibly damaging to consumer confidence and advises that, with a view to equivalence, procedural rules be laid down in trade agreements on the basis of which the Commission can conduct transparent negotiations with third countries. In order to improve transparency during the negotiation of agreements, there should be a European Council mandate, with associated rules, and the Commission should have to report to the Council on the agreements concluded;

Procedural, transitional and final provisions

15. recommends that the existing practice of regular on-the-spot checks be maintained. Article 44(3) of the proposal for a regulation amends Article 23 of the proposal for a regulation on official controls. The existing practice of annual on-the-spot checks is thus replaced by a system of checks based on risk assessment. Cost-cutting is the reason for this change. Like the IFOAM, the AREPO and the EOCC, the CoR regards this as an undesirable development. The checks are important for consumer confidence and a reference for producers;

Organic farming action plan

16. recommends that a platform be established to supervise and evaluate the action plan. The platform would promote and evaluate the implementation of the action plan. The platform participants would come from the "golden triangle" of business, government and education and research. Specifically, they would be representatives of business, education and science,

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the Member States and the regions together with a panel of consumers and environmental associations. The CoR advises the Commission to establish a target of 10% organically cultivated land by 2020 for the action plan. Regional activities which could be coordinated by the platform are listed in points 17 and 18;

17. encourages the introduction of organic products in mass catering. Catering in educational and government bodies, care institutions and businesses can provide a stimulus to the development and organisation of local organic production. The introduction of organic products in catering facilities is often part and parcel of local policy measures. The CoR calls for efforts to ensure that 75% of school canteen food consists of healthy, organic and/or local products, and for a database of information and ideas to be established on healthy, organic and regional products in mass catering;
18. calls for the protection of water resources and nature through organic farming. Various regions have accumulated positive experiences of protecting water resources and nature through organic farming. The CoR calls for exchange of experiences to ensure that local and regional authorities are encouraged to become involved in this.

II. RECOMMENDATIONS FOR AMENDMENTS

Amendment 1 New Recital 9

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
	<u>It is appropriate to provide for some degree of flexibility in the application of production rules to allow rules and requirements to be adapted to local climate or geographical conditions, husbandry practices, and stages of development in organic production. This should enable exceptions to be provided for, but only within the limits and under the specific conditions set out in EU legislation. Greater flexibility must not come into conflict with certification efforts, which must be effective and harmonised, which means that clear criteria and rules will have to be set for applying exceptions and included in the basic regulation.</u>

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Reason

The amendment is designed to ensure that the current draft regulation incorporates the flexibility required to allow for local conditions.

Amendment 2 Article 2(1)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p>This Regulation shall apply to agricultural products listed in Annex I to the Treaty on the Functioning of the European Union ('the Treaty') and to some other products listed in Annex I to this Regulation, insofar as those agricultural products and those other products are intended to be produced, prepared, distributed, placed on the market, imported or exported as organic.</p> <p>The products of hunting and fishing of wild animals shall not be considered as organic products.</p>	<p>This Regulation shall apply to agricultural products listed in Annex I to the Treaty on the Functioning of the European Union ('the Treaty') and to some other products listed in Annex I to this Regulation, insofar as those agricultural products and those other products are intended to be produced, prepared, distributed, placed on the market, imported or exported as organic, <u>and until they are packaged, labelled and made available to the end consumer in tamper-resistant packaging or, where appropriate, when marketed in bulk, until they reach the end consumer removed from their packaging or in packaging that is not tamper-resistant.</u></p> <p>The products of hunting and fishing of wild animals shall not be considered as organic products.</p>

Reason

It is necessary to ensure that the scope of control and production rules is clearly defined from the moment the product leaves the farm to the moment when it becomes tamper-resistant and/or reaches the end consumer.

Amendment 3 Article 3(7)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p>"group of operators" means a group in which each operator is a farmer who has a holding of up to 5 hectares of utilised agricultural area and who may, in addition to producing food or feed, be engaged in processing of food or feed;</p>	<p>"group of operators" means a group in which each operator is a farmer who, <u>in accordance with the standards applied in the relevant Member State, can be defined as a small farmer</u> has a holding of up to 5 hectares of utilised agricultural area and</p>

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	who may, in addition to producing food <u>and/or</u> feed, be engaged in processing of food <u>and/or</u> feed;
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Reason

The concept of "small farmer" is greatly dependent on the local context. The Member States should therefore be able to define the concept themselves.

Amendment 4
Article 7(1)(a)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
Operators shall comply with the following general production rules: (a) the entire agricultural holding or aquaculture operation shall be managed in compliance with the requirements applicable to organic production;	Operators shall comply with the following general production rules: (a) the entire agricultural holding or aquaculture operation, <u>or a specific part of it</u> , shall be managed in compliance with the requirements applicable to organic production;

Reason

Mixed farming is good for the interaction between organic and conventional agriculture. A ban on mixed farming will lead to the disappearance of some organic producers.

Amendment 5
Article 20

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
Presence of non-authorised products or substances 1. Products in which the presence of products or substances that have not been authorised in accordance with Article 19 is detected beyond the levels established taking account in particular of Directive 2006/125/EC, shall not be marketed as organic. 2. In order to ensure the effectiveness, efficiency and transparency of the organic production and labelling system, the Commission shall be empowered to adopt delegated acts in accordance with Article 36	Presence of non-authorised products or substances 1. Products in which the presence of products or substances that have not been authorised in accordance with Article 19 is detected beyond the levels established taking account in particular of Directive 2006/125/EC, shall not be marketed as organic. 2. In order to ensure the effectiveness, efficiency and transparency of the organic production and labelling system, the Commission shall be empowered to adopt delegated acts in accordance with Article 36 regarding the specific criteria and conditions for the

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<p>regarding the specific criteria and conditions for the application of the levels referred to in paragraph 1 and regarding the establishment of those levels and their adaptation in the light of technical developments.</p> <p>3. By way of derogation from Article 211(1) of Regulation (EU) No 1308/2013, and subject to an authorization by the Commission adopted without applying the procedure referred to in Article 37(2) or (3) of this Regulation, Member States may grant national payments to compensate farmers for the losses they have incurred due to the contamination of their agricultural products by non-authorised products or substances which prevents them from marketing those products as organic provided that the farmers have taken all appropriate measures to prevent the risk of such contamination. Member States may also use the instruments of the Common Agricultural Policy to cover totally or partially such losses.</p>	<p>application of the levels referred to in paragraph 1 and regarding the establishment of those levels and their adaptation in the light of technical developments.</p> <p>3. By way of derogation from Article 211(1) of Regulation (EU) No 1308/2013, and subject to an authorization by the Commission adopted without applying the procedure referred to in Article 37(2) or (3) of this Regulation, Member States may grant national payments to compensate farmers for the losses they have incurred due to the contamination of their agricultural products by non-authorised products or substances which prevents them from marketing those products as organic provided that the farmers have taken all appropriate measures to prevent the risk of such contamination. Member States may also use the instruments of the Common Agricultural Policy to cover totally or partially such losses.</p>
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Reason

The CoR is not in favour of a separate system of obligation to achieve results for the organics sector.

Amendment 6

Article 30

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p>Equivalence under a trade agreement</p> <p>A recognised third country referred to in the first indent of Article 28(1)(b)(ii) is a third country which the Union has recognised under a trade agreement as having a system of production meeting the same objectives and principles by applying rules which ensure the same level of assurance of conformity as those of the Union.</p>	<p>Equivalence under a trade agreement</p> <p><u>1.</u> A recognised third country referred to in the first indent of Article 28(1)(b)(ii) is a third country which the Union has recognised under a trade agreement as having a system of production meeting the same objectives and principles by applying rules which ensure the same level of assurance of conformity as those of the Union.</p> <p><u>2.</u> <u>The Commission shall lay down procedural</u></p>

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	<p><u>rules for the recognition of third countries under trade agreements.</u></p> <p><u>3. The Commission shall negotiate trade agreements on the basis of a mandate from the European Council, with associated rules.</u></p>
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Reason

Comparing control measures and production rules is the basis for the equality principle with a view to strengthening consumer confidence.

Amendment 7
Article 36(3)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p>Exercise of the delegation</p> <p>3. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</p>	<p>Exercise of the delegation</p> <p>3. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament, and to the Council <u>and the Committee of the Regions.</u></p>

Reason

The CoR considers that, as the European advisory body, it should be able to issue an opinion on subjects which are of essential importance to the regions. As the Treaty does not allow the CoR to advise the Commission on delegated acts, the CoR would like to be able to advise the Parliament and the Council on delegated acts.

Amendment 8
Rule 44(3)(3)(c)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p>In relation to the rules referred to in point (j) of Article 1(2), the delegated acts referred to in paragraph 2 of this Article shall lay down rules on:</p> <p>(c) the frequency of official controls on operators, and the cases where and conditions under which certain such operators are to be exempted from certain official controls;</p>	<p>In relation to the rules referred to in point (j) of Article 1(2), the delegated acts referred to in paragraph 2 of this Article shall lay down rules on:</p> <p>(e) the frequency of official controls on operators, and the cases where and conditions under which certain such operators are to be exempted from certain official controls;</p>

Reason

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The regular on-the-spot checks are important for consumer confidence and a reference for producers. It is therefore important to maintain these checks.

Amendment 9
Annex II, Part II, 1.4.1

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
1.4.1. General nutrition requirements With regard to nutrition the following rules shall apply: a) feed for livestock shall be obtained primarily from the agricultural holding where the animals are kept or from other organic holdings in the same region;	1.4.1. General nutrition requirements With regard to nutrition the following rules shall apply: a) feed for livestock shall be obtained primarily from the agricultural holding where the animals are kept or from other organic holdings in the same region, <u>where resources allow; otherwise, with specific authorisation it may be obtained from outside the region;</u>

Reason

This requirement would cause many organic livestock holdings in a number of European regions to disappear, as nowadays it is very difficult for farmers to rely entirely on their own holding or another nearby to feed their livestock.

Brussels, 4 December 2014.

The President
of the Committee of the Regions

Michel Lebrun

The Secretary-General
of the Committee of the Regions

Jiří Buriánek

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III. PROCEDURE

Title	Policy package on organic production
Reference(s)	COM(2014) 179 final, COM(2014) 180 final
Legal basis	Article 307(1) TFEU
Procedural basis	Optional referral
Date of Commission letter	8 May 2013
Date of President's decision	10 April 2014
Commission responsible	Commission for Natural Resources (NAT)
Rapporteur	Willemien Hester Majj (NL/EPP), Member of the Council of Overijssel province
Analysis	July 2014
Discussed in commission	3 October 2014
Date adopted by commission	3 October 2014
Result of the vote in commission	Majority
Date adopted in plenary	3 and 4 December 2014
Previous Committee opinions	CDR 5295/2013 – <i>Regulation on Official Controls</i> – Rapporteur: Ewa Panasiuk (PL/ECR) CDR 1277-2014 – <i>Agricultural genetic resources – from conservation to sustainable use</i> - Rapporteur: Giuseppe Varacalli (IT/ALDE)
Consultation of Subsidiarity monitoring network	16 April 2014 – 26 May 2014

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