



European Organic Certifiers Council

cooperating for reliability!

EOCC position paper

**On the draft report on the proposal for a regulation of the
European Parliament and the Council on organic production
and labelling of organic products**

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General Statements

The *European Organic Certifiers Council*, EOCC, welcomes the draft report of Mr. Häusling, which considerably improves the proposal made by the European Commission. Since the beginning of the revision process, EOCC insists on the need for the revised regulation to ensure a higher reliability of the control system, a better prevention of and action against fraud and greater consumer confidence.

Many of the amendments tabled by the rapporteur are in line with EOCC requests and contribute to reaching these goals. This position paper aims at highlighting the amendments where EOCC is not in line with the rapporteur. EOCC believes in the necessity to oppose some of them, redraft others and table new amendments in order for the revised regulation to provide for an adequate and reliable framework for control and certification in the organic sector in the EU and third countries.

This position papers focusses on key issues for control bodies and authorities:

- Scope (p.3)
- Definitions (p.4)
- Controls (p.5)
- Certification (p.7)
- Imports and exports (p.8)
- Residues (p.9)
- Production rules (p.10)
- Labelling rules (p.11)
- General provisions (p.12)

Finally, EOCC does not comment in this paper on individual proposals regarding delegated and implementing acts. Based on experiences made in the recent past, for instance on the reference to the control body under the EU logo, labelling rules for spiruline and chlorella or conversion of livestock and livestock products, EOCC supports the adoption of more detailed rules by way of implementing acts.

EOCC represents 50 control bodies and authorities operating in Europe and beyond towards European Institutions. Its aim is to increase the reliability of control and certification activities and decisions in relation to European legislation with regard to organic production and labelling of organic products. EOCC fosters the harmonization of interpretation of the European organic legislation and supports the exchange of information amongst all inspection bodies.

EOCC is listed in the transparency register under number 755639413555-75

Scope

For EOCC, the Rapporteur's proposal on the scope of this legislation (AM47) enhances the Commission's proposal. However, further simplification could be attained by deleting the reference to wine, mushrooms and collected wild plants (all of them already included under "food").

EOCC therefore asks you to further simplify the scope given by the Rapporteur in its AM 47 in deleting mentions to wine, mushrooms and collected wild plants

Regarding mass-operations, EOCC welcomes the inclusion of mass catering in the scope but draws attention to the fact that some EU MS have their own set of production and labelling rules for mass catering activities in place already. EOCC requests that the development and consumer's trust in this sector is not disturbed. Inclusion of mass catering in the scope requires careful preparation and research before harmonizing the different approaches already existing in the EU member states. Therefore, EOCC requests that existing national or private rules should be allowed to continue to be applied while there are no EU rules for mass catering.

EOCC therefore asks you to oppose AM 49 which foresees the deletion of national rules for mass catering as proposed by the EC

Definitions

EOCC would like to draw your attention on several definitions which, in their current redaction, raise important questions:

- *group of operators* : the current definition is too complicated to be properly implemented and does not take into account the different income levels in the EU-28.
- *in-conversion feed* : the relation of this definition to simultaneous conversion (Annex II, part II) should be further explored. Farmers in the first year of simultaneous conversion should be allowed to use their own feed.
- *traceability* : traceability requirements for organic processors also require traceability for organic ingredients. This is not covered by the general food law (Reg 178/2002).
- *competent authority* : the definition should only apply to competent authorities in the EU and for third countries with which the EU has an equivalence agreement.

In addition, EOCC would welcome definitions of the following concepts:

- *organic status* of a product, especially in light of the provisions laid down by AM. 203. A definition should clarify whether the organic status of a product is related to the methods of production, using exclusively organic means ("consumers point of view") or if it can also be applied in case of non-compliance regarding administrative issues which do not alter the content and nature of the product itself (missing cleaning records, missing invoices or delivery notes, missing certificate of inspection, ...).
- *organic feed*, because the combination of definitions of "organic" and "feed" is misleading and should not be applied as such in cases where farmers manage parcels in different stages of conversion.
- *simultaneous conversion* of a production unit.
- *Conversion period*: EOCC would welcome a detailed definition of conversion period in the recitals. For the daily work of control bodies and authorities, the estimation of the "relevance of the requirement that has been violated" in case of decertification is important.

EOCC therefore asks you

(i) to oppose AM 55 and to give "group of operators" an implementable definition, which allows compliance in third countries and facilitates access to the control system for small farmers.

(ii) to oppose to AM 69 on "in -conversion feed" and create clarity in relation to Ann II part II point 1.4.3

(iii) to define « organic feed »

(iv) to define « organic status »

(v) to define « simultaneous conversion »

(vi) to redefine « traceability » for organic operators different (Art 3(26) of the EC proposal) in order to include ingredients

(vii) to create a recital for « conversion period » differentiating between the different aspects of conversion (simultaneous conversion, conversion of an individual parcel, of an individual animal and the need to restart a conversion period in case of violation of some production rules).

Controls

In general, EOCC welcomes the rapporteur's approach to bring control requirements for organic production back into the Organic regulation. However, we ask to avoid double references with the Official controls regulation, which is currently being revised as well.

This being said, EOCC wants to highlight the extreme importance for private control bodies to be able to continue to work independently from competent authorities. The change of label from "control body" under the current regulation to "delegated body" under the future regulation for official controls will introduce fundamental changes in the functioning of the current control system and conflicts with accreditation requirements. EOCC asks to be extremely careful and watch over independency of private control bodies regarding controls and certification decisions in relation to organic products and organic production. In that context EOCC requests to consider certificates delivered to organic operators as not being "official certificates". This would avoid unfruitful discussions between private control bodies and competent authorities regarding the responsibility of issuing certificates.

Secondly, EOCC asks for a clear description and division of tasks in the control system between competent authorities, accreditation bodies and control authorities/bodies. In addition, there is an urgent need for effective coordination between competent authorities and accreditation bodies. Finally, EOCC requests the inclusion of a requirement for competent authorities to organize peer reviews of their tasks as it is currently being done at the level of accreditation bodies and the European cooperation for accreditation (EA).

EOCC asks you to create an amendment to improve the control system for organics by establishing a legal basis for the independence of private control bodies in matters related to controls and certification (decisions) and to introduce an amendment regarding the need more effective supervision by competent authorities and accreditation bodies.

In addition, EOCC supports the reintroduction of the annuality of controls for organic production. Mandatory annual controls are a proven key element in the prevention of and the fight against fraud, annual risk assessment, agricultural annual production cycle, issuance of organic certificates with a reasonable period of validity and annual requirements for record keeping. To ensure the reliability of the organic control system for operators and consumers, annual on-site (i.e. physical) controls of all certified operators need to remain an obligation. EOCC supports an assessment of risk to determine the critical points to be verified during each annual on-site control.

EOCC therefore asks you to use the word « control » instead of « audit » in all amendments related to the organic control system. The current wording of the Rapporteur does not ensure that annual on-site controls will take place ("Such verification shall be based on an annual audit and on inspection, screening and targeted screening, depending on the likelihood of noncompliance")

Furthermore, EOCC underlines the importance that, depending on national provisions, control authorities and controls bodies remain authorized to decide and monitor (follow-up) situations of non-compliance which affect the "organic status" of a product.

EOCC therefore asks you to oppose provisions of Art. 23a.7(c)

Being committed to and convinced of the need for traceability covering not only products but also organic ingredients, EOCC believes that the requirements for traceability for organic processors exceed the requirements for non-organic processors (see also request formulated in the definitions' chapter)

Finally, the introduction of unrealistic deadlines by the Rapporteur (AM 196 and AM 334) is not supported by EOCC.

EOCC asks you to reconsider the provisions foreseen by the Rapporteur regarding the delay to respond to control bodies and authorities (4 working days, Art. 23a13)

Certification

EOCC proposes that one operator or one group of operators shall not be entitled to be provided with an organic certificate by different control authorities or different control bodies (Art. 25.3).

In addition, regarding groups of operators, EOCC considers as necessary that certificates can only be issued to the head of the group of operators, which should be responsible for the conformity of the process, and not to single members of the group.

EOCC therefore asks you to include an additional AM related to Art 25.3 of the EC proposal and covering at least the following requirement: "An operator or a group of operators shall not be entitled to be provided with an organic certificate by different control authorities or control bodies."

Import and export

EOCC generally welcomes approaches aiming at putting an end to multiple certifiers' standards. A clear, operating import scheme is needed in order to ensure the quality of organic products imported in Europe. From this point of view, the EC proposal to switch to full-compliance formed a good working basis. However, EOCC highlights the importance to keep certificates of inspection even in case of a switch to a full-compliance system. This should be made clear in the future Regulation.

By contrast, EOCC is very cautious towards the scheme established by the Rapporteur. The recognition of regional standards as being equivalent to EU standards would lead to the coexistence of multiple standards, and thus potential unfair competition and misinformation of the customer.

As a consequence, EOCC asks you to reject amendments leading to the creation of such a scheme, and in particular of amendments 232, 232 and 234.

EOCC would also like to underline that by proposing the establishment of an Agency, the current draft report creates additional decision levels, which are currently not enough identified. Although not opposed to the creation of an Agency, EOCC would like to underline that:

- the key issue is the global means available for to organic supervision at EU-level;
- the setting up of such an Agency would require a clear definition of roles between the Agency and the DG AGRI.

EOCC therefore asks you to consider carefully the role of the newly created agency, especially in amendments 221, 222, 224, 225

Residues

For EOCC, there is a clear need for a single European interpretation scheme for analytical results in organic products. This is key to fair competition amongst European operators and transparency towards consumers of organic products. EOCC therefore welcomed the fact that the EC proposal, although not acceptable in its current wording, explicitly addressed the issue of maximum level of non-authorized substances. EOCC regrets that the draft report ignores the problem of different measures in different MS in case of detection of non-authorized substances and only proposes a new article on precautionary measures, which requires improvements. This is not a solution to the current problems.

EOCC would like in particular to draw your attention on the fact that in the wording proposed by the Rapporteur, Art. 20a1c (AM 178) would oblige operators to withdraw products from the market in case of suspicion of non-compliance. According to EOCC, this wording is disproportionate because irreversible. EOCC therefore proposes to include the following obligation for operators: "... the operator shall keep products out of the market and discontinue its processing..." in case of suspected (and not yet proven) non-compliance. This would be equivalent, although in a different wording, to the current Art 91,1 of Reg 889/2008.

Finally, EOCC would welcome the precision of provisions foreseen by the rapporteur in Art. 20a4 in order to clarify that these are *additional* precautionary measures, which apply to non-organic practices *from the operator himself*.

EOCC therefore asks you to retable AM 178 in: (i) rephrasing Art. 20a1c regarding actions to be taken by operators in cases of non-compliances (ii) rephrasing Art. 20a4 to specify the non-organic practices covered

Production rules

EOCC would like to raise some doubts about the rules foreseen in the draft report for conversion, treatments and feed.

Regarding conversion, in absence of clear distinction between simultaneous conversion of a production unit and conversion of a single parcel, the wording proposed by the Rapporteur for the start of the conversion period is confusing (Annex II – part I – 1.2.1). In addition, particular attention will have to be paid to the conversion of parcels within a group of operators. The duration of three quarters of the lifetime of cattle, which remains from Reg. 2092/91, does not make sense anymore and should be consequently deleted.

EOCC supports a better definition of the concept and possibilities in the context of « conversion » in Art 8 of the COM proposal, focusing in particular on « simultaneous conversion of a production unit » and conversion of individual parcels and animals as an alternative.

On treatments, EOCC opposes AM 262 because it is not always possible to determine the treated parts of a particular parcel (e.g. in case of fungicide in an orchard).

EOCC therefore invites you to reject AM 262 and accept the initial EC wording

Labelling

Regarding plant protection products, fertilizers, soil conditioners and nutrients, covered by AM 180, EOCC considers the Rapporteur's proposal as too restrictive. Many of these products are currently certified and labelled according to private or national standards. EOCC supports the possibility the label them as "suitable for use in organic farming" or "may be used in organic production", notwithstanding the fact that these products are not included in scope of Regulation.

EOCC therefore invites you to precise in a new amendment the labelling of plant protection, fertilizers etc. products as « suitable »

To offer more clarity to the consumer, EOCC supports the idea of that in each Member State, the principle of "one operator, one CB" for the labelling of private label products shall apply. EOCC therefore suggests to rephrase Art. 22.1 (a) of the EC proposal so that it is the control body or the control authority of the operator responsible for placing the product on the market according to Art 9 of Reg 1169/2011 (and also *mentioned on the packaging material*) who appears on the label.

EOCC therefore asks you to create an amendment for the mandatory labelling requirements (Art 22) which indicates the reference to the control body/authority of the operator as defined in in Art 9 of Reg 1169/2011.

EOCC asks you to create an amendment stating that the use of the EU logo for organic farming is considered equal to the use of the word "organic" in the sales description of a product or any document and publicity related to a product bearing the EU logo for organic.

General provisions

In relation to the presence of non-authorized substances in organic products, EOCC is in favour of enlarging the concept of free movement of products. Currently (Art 34 in Reg 834/2007 and Art 32 of the EC proposal) in the EU, Member States may not refuse organic products because of production methods. EOCC asks to adopt this approach for control systems in the EU (in particular different interpretation schemes in case of presence of non-authorized substances). EOCC therefore requests the inclusion of an amendment to Art 32 which would prohibit the restriction of free movement of organic products because to requirements of the control system for organic production as applicable under different competent authorities.

EOCC therefore asks you to amend Art 32 in order to allow free movement of organic products despite differences in the control system in different MS.