



EUROPEAN COMMISSION

Brussels, 15.9.2014
C(2014) 6464 final

Dear President,

The Commission would like to thank the Bundesrat for its Reasoned Opinion on the 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{COM(2014) 180 final}.

The Commission welcomes the general support from the Bundesrat for a harmonised regime for organic production.

The Commission does not share the view of the Bundesrat that the proposal is incompatible with the principle of subsidiarity. In answer to the remarks of the Bundesrat, the Commission would like to make the following comments.

As regards the provisions in the proposal on the adoption of exceptional production rules (Article 17) the Bundestag considers that a certain national leeway should be allowed for organic production to continue under certain circumstances, including climatic conditions, catastrophic events and limitations due to geographical or structural conditions that may cause sudden bottlenecks in the supply of organic inputs (e.g. seed and feed). In that respect the Commission would like to point out that the general objective of the proposal is to bring further harmonisation to the rules on organic production. In fact, the Commission has been made aware that the current scope offered for granting exceptions to those rules has led to unfair competition among EU organic operators and in relation to imported organic products, and has led to an ineffective functioning of the single market, a risk of loss of consumer confidence, complexity in the legislation, trade issues (difficulties in enforcing compliance) and heavy administrative burdens.

As regards the specific comments of the Bundesrat on exceptions in relation to climatic conditions, geographical and structural conditions and the availability of organic inputs (seeds and feed), the Commission wishes to draw the Bundesrat's attention to Article 4 (g) of the proposal which provides, as the existing Regulation, that one of the principles of organic production is "adaptation, where necessary, and within the framework of this Regulation, of the production process, taking account of the sanitary status, regional differences in ecological balance, climate and local conditions, stages of development and specific

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husbandry practices.". For seeds and feed, the Action Plan for the future of Organic Production in the European Union {COM (2014) 179 final} that accompanies the Commission's Regulation proposal foresees in its chapter on research and innovation, to address the lack of supply of organic seeds and protein feed.

The Commission agrees with the Bundesrat that the availability of organic seeds is a challenge for organic farmers. Although the situation seems to have slightly improved, there is an important use of exceptions allowing the use of conventional non-treated seeds. Therefore it is important to increase information intended for producers on the availability of organic seeds throughout the EU, with a seed database at European level. In its Action Plan, the Commission is recommending that stakeholders set up such a data base at European level on the availability of organic seeds. In addition, for seeds, the Commission has provided in Article 40 of the proposal that it should be allowed to use non-organic plant reproductive material until the end of 2021. The Commission has noted that the Bundesrat considers that the possibility of authorising the use of conventional seed should be maintained.

In that context, the Commission would like to inform the Bundesrat that the Commission intends to organise a conference in 2015 to identify research and innovation priorities for producers in relation to the challenges that may result from the future organic production rules. The availability of organic protein feed is indeed an issue. The Commission is aware that research into protein crops has remained limited compared with other production sectors, with the result that protein crop yields have fallen behind in the last decades. The Commission considers that renewed investment in research into protein crop production could help to improve the situation.

The Bundesrat considers that Member States should be able to allow the use of certain non-organic ingredients. The Commission wishes to point out that following and in accordance with a request from the organic sector, the possibility for a reduced list of non-organic ingredients authorised in processed organic food has been maintained in the proposal.

The Bundesrat also states in the Reasoned Opinion that it cannot agree to uniform rules applying to the EU as a whole regarding the specific criteria and conditions for the establishment of levels of non-authorised products or substances. In the opinion of the Bundesrat, such a regime would entail significant disadvantages for Austria in particular. In that respect the Commission would like to stress that it is for the purpose of ensuring fair competition between EU producers that the Commission proposes to harmonise at EU level the rules to be applied in the case of a detection of the presence of non-authorised products in organic products. Currently, the consequences of such detection vary according to the Member State, the laboratories concerned or even the detection limits of the equipment used. The proposal has therefore the objective of introducing a clear rule as regards the consequences of the presence of non-authorised substances. The proposal does not change the situation in terms of controls and testing because, already today, organic products, as part of the food and feed chain, have to be tested for the presence and level of residues of authorised and non-authorised substances following the existing regulatory procedures. As regards the possible levels of thresholds, the Commission has not made any proposal because this requires further in-depth discussion and examination together with interested parties. Concerning the specific situation of Austria and the small size of organic agricultural holdings, the Commission wishes to recall once again its Action Plan that proposes that coexistence of organic farming with non-organic agriculture should be a focus area of research and innovation initiatives.

The Commission has taken note of the concerns of the Bundesrat as regards the transition for existing certified farms. In that respect, the Commission would like to recall that in order to ensure a smooth transition from the old to the new legal framework, several provisions are foreseen for farmers in conversion, for the use of plant reproductive material, animals for breeding purposes and young stock of aquaculture animals, for control authorities and control bodies, for applications for a recognition of equivalence submitted by third countries and for stocks of organic products produced under the current rules. Furthermore, to allow for some time for operators to adapt to the future legislation, the proposal provides that the Regulation should apply at least six months after its entry into force. As is the case for all the Commission's proposals, the transitional provisions will be adapted according to the length of the legislative procedure. In this context, the Commission has noted the request of the Bundesrat to give particular attention to the case of farmers participating in the ongoing Austrian agri-environment programme.

The Bundesrat finally considers that the number of delegated acts is too high and makes the proposal too unspecific which does not allow for a qualitative and quantitative assessment and evaluation of its effects. The Commission would like to underline that in order to make the Regulation fully operational in guaranteeing fair competition for farmers and operators and allowing the internal market to function more efficiently as well as to ensure consumer confidence in organic products, the power to adopt acts in accordance with Article 290 TFEU has been deemed necessary. The delegations of power in the proposal provide for clear and concise criteria, giving limited discretion to the Commission. The Commission would involve Member States in the preparation of these acts and would ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

The points made above are based on the initial proposal presented by the Commission which is currently in the legislative process involving both the European Parliament and the Council at which your government is represented.

The Commission hopes that the clarifications it has given address the concerns and questions raised by the Bundesrat and looks forward to pursuing our political dialogue.

Yours faithfully,

*Maroš Šefčovič,
Vice-President*