



# ARTEMISIA

COMMITTED LAWYERS FOR NATURE  
AND HUMAN RIGHTS DEFENDERS

## Seeds in the new Organic Regulation 2018/848

16th October 2018, 09.00–13.00

Room A1G-3, Altiero Spinelli Building,  
European Parliament, Brussels

**Supported by** the Greens/EFA Group, MEP's Martin Häusling (Greens/EFA), Eric Andrieu (S&D), Ivan Jakovčić (ALDE) and Norbert Lins (EPP), Artemisia Aisbl and ARCHE NOAH

**Translation** will be provided in DE, EN, ES, FR

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Blanche Magarinos-Rey

Brussels, 16 October 2018

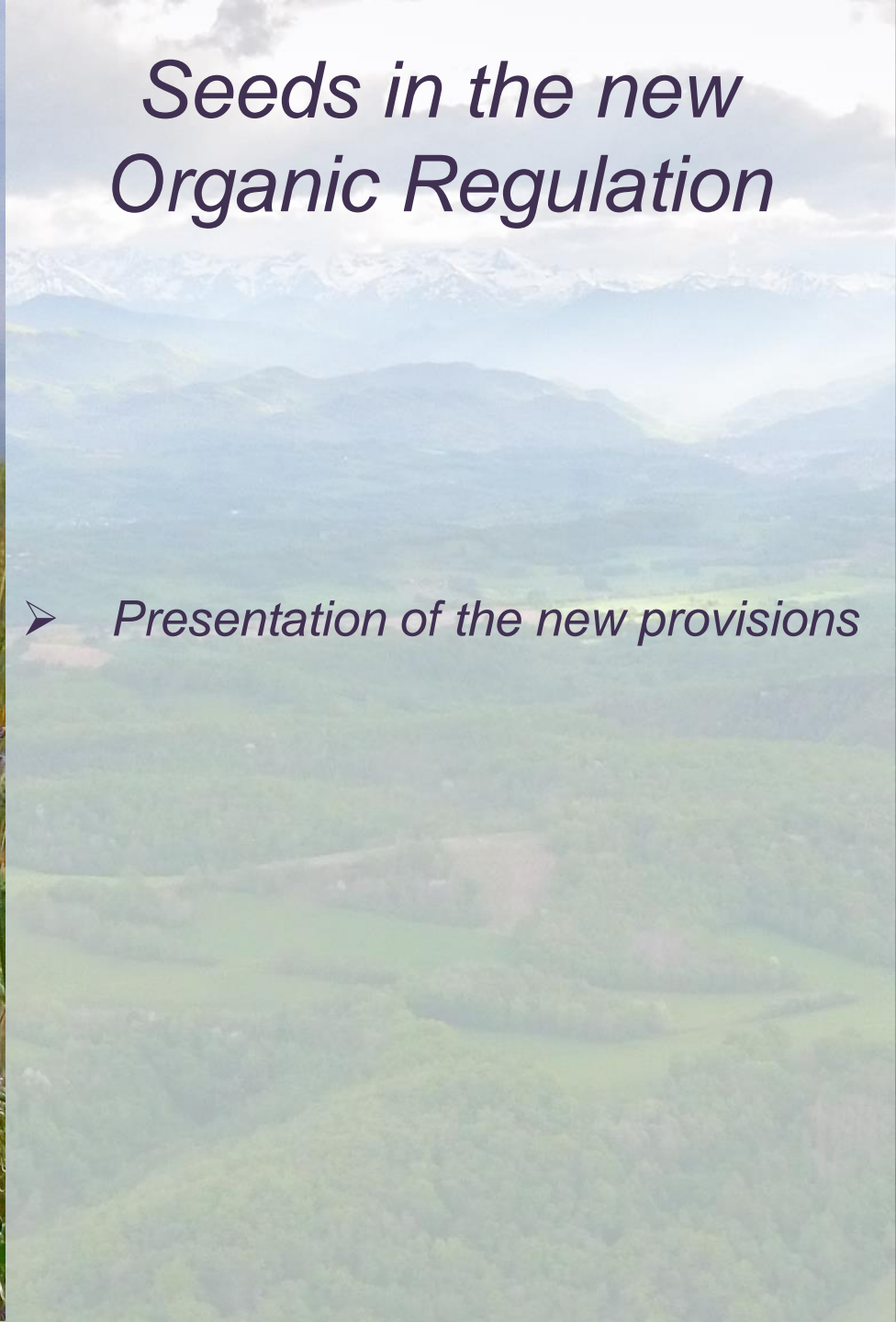
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# *Seeds in the new Organic Regulation*

- *Presentation of the new provisions*



# THE « ORGANIC SEED » PROBLEM

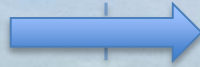
At the varieties level

At the seeds & PRM level

*Currently:*

- Conventional

Reproduction under  
organic conditions  
during 1 generation only



“Organic” Seeds

→ Insufficient:  
- In quantity  
- In varieties

→ leads to:  
DEROGATIONS to  
use non-organic  
seeds



# ***The new provisions on Seeds in Regulation 2018/848***

- *Creation of 2 new categories of “varieties” :*
  - ✓ *“organic heterogeneous material”*
  - ✓ *“Organic varieties suitable for organic production”*
- *Possible multiplication of seeds on the farm*
- *National and European databases on available organic seeds*
- *End of derogations*
- *Preference to be given to seeds adapted to organic production*

# *The new provisions on Seeds in Regulation 2018/848*

- *Creation of 2 new categories of “varieties” :*
  - ✓ *“organic heterogeneous material”*
  - ✓ *“Organic varieties suitable for organic production”*



# ✓ “*organic heterogeneous material*”

Regulations 834/2007 & 889/2008

Regulation 2018/848

## Article 3 – Definitions

(18) ‘**organic heterogeneous material**’ means plant grouping within a single botanical taxon of the lowest known rank, which:

- (a) presents common phenotypic characteristics;
- (b) is, however, characterised by a **high level of genetic and phenotypic diversity** between individual reproductive units, so that this plant grouping is represented by the material as a whole, and not by a small number of units;
- (c) **is not a variety** within the meaning of Article 5(2) of Council Regulation (EC) No 2100/94;
- (d) is not a mixture of varieties;
- (e) has been produced in accordance with the requirements of this Regulation.

# ➤ “organic heterogeneous material”

## Regulation 2018/848

### Article 13 - Specific provisions for the marketing of plant reproductive material of organic heterogeneous material

1. Plant reproductive material of organic heterogeneous material may be marketed **without complying with the requirements for registration and the certification categories of pre-basic, basic and certified material, or the requirements for other categories**, as set out in Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 98/56/EC, [2002/53/EC], [2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 2008/72/EC and 2008/90/EC, or acts adopted pursuant to those Directives.
2. Plant reproductive material of organic heterogeneous material as referred to in paragraph 1 **may be marketed following a notification of the organic heterogeneous material** by the supplier to the responsible official bodies referred to in Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 98/56/EC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 2008/72/EC and 2008/90/EC **of a dossier containing:**
  - (a) the contact details of the applicant;
  - (b) the species and denomination of the organic heterogeneous material;
  - (c) the description of the main agronomic and phenotypic characteristics that are common to that plant grouping, including breeding methods, results from tests, if available, the country of production and the parental material used;
  - (d) a declaration of the applicant concerning the trueness of the elements in points (a) to (c) ;
  - (e) a representative sample;

That notification shall be sent by **registered letter**, or by any other means of communication accepted by the official bodies, with confirmation of receipt requested.

**Three months after** the date shown on the return receipt, provided that no additional information was requested or that no formal refusal for reasons of incompleteness of the dossier or non-compliance as defined in Article 3(57) was communicated to the supplier, **the responsible official body shall be deemed to have acknowledged the notification and its content.**

After having expressly or implicitly acknowledged the notification, **the responsible official body may proceed to the listing of the notified organic heterogeneous material.** That listing shall be **free of charge** to the supplier.

The listing of any organic heterogeneous material shall be communicated to the competent authorities of the other Member States and to the Commission.

Such organic heterogeneous material shall fulfil the requirements laid down in the delegated acts adopted in accordance with paragraph 3.



# ➤ “organic heterogeneous material”

## Regulation 2018/848

3. The Commission is empowered to adopt **delegated acts** in accordance with Article 54 supplementing this Regulation by setting out **rules for the production and marketing** of plant reproductive material of organic heterogeneous material of particular genera or species, as regards:
  - (a) the **description** of the organic heterogeneous material, including the relevant breeding and production methods and parental material used;
  - (b) the **minimum quality requirements of seeds lots**, including identity, specific purity, germination rates and sanitary quality;
  - (c) **labelling and packaging**;
  - (d) **information and samples of production to be kept** by the professional operators;
  - (e) where applicable, **maintenance** of the organic heterogeneous material.



# ➤ *Organic varieties suitable for organic production*

Regulations 834/2007 & 889/2008

Regulation 2018/848

## Article 3 - Definitions

(19) **'organic variety suitable for organic production'** means a variety within the meaning of Article 5(2) of Regulation (EC) No 2100/94 which :

(a) is characterised by a **high level of genetic and phenotypical diversity** between individual reproductive units;

(a) **results from organic plant breeding activities** referred to in Annex II, Part I, point 1.8.4;

# ➤ *Organic varieties suitable for organic production*

Regulations 834/2007 & 889/2008

Regulation 2018/848

## WHAT IS ORGANIC BREEDING ?

### ANNEX II TO THE ANNEX I

Detailed production rules referred to in chapter III

Part I: Plant production rules

1.8.4 For the production of organic varieties, the organic breeding activities shall be conducted under organic conditions and focus on enhancement of genetic diversity, reliance on natural reproductive ability, as well as agronomic performance, disease resistance and adaptation to diverse local soil and climate conditions.

All multiplication practices except meristem culture shall be under certified organic management.

#### Article 6

Specific principles applicable to agricultural activities and aquaculture

As regards agricultural activities and aquaculture, organic production shall, in particular, be based on the following specific principles:

(...)

(h) the production of organic varieties through natural reproductive ability and focussing on containment within natural crossing barriers;



# ➤ *Organic varieties suitable for organic production*

Regulations 834/2007 & 889/2008

Regulation 2018/848

WHAT IS ORGANIC BREEDING ?

Article 11

Prohibition of the use of GMOs

1. GMOs, products produced from GMOs, and products produced by GMOs shall not be used in food or feed, or as food, feed, processing aids, plant protection products, fertilisers, soil conditioners, **plant reproductive material**, micro-organisms or animals in organic production.

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ECJ Case C-528/16

25 July 2018

# ➤ *Organic varieties suitable for organic production*

Regulation 2018/848

Temporary experiment for the marketing of 'organic varieties'

## Declaration from the Commission

The Commission acknowledges the need to establish conditions under which organic varieties suitable for organic production shall be developed.

For the purpose of establishing criteria for the description of the characteristics of 'organic varieties suitable for organic production', as well as defining the conditions under which 'organic varieties suitable for organic production' may be produced with a view to marketing, the Commission will organise **at the latest 6 months after the date of application of the present Regulation a temporary experiment.**

This temporary experiment will establish criteria for describing the distinctness, uniformity, stability, and, where applicable, the value for cultivation and use of organic varieties suitable for organic production and address other marketing conditions such as labelling and packaging. These conditions and criteria will take into account the specific needs and aims of organic agriculture such as enhancing genetic diversity, disease resistance and adaptation to soil and climate conditions. **Yearly reports** will be produced to monitor the progress of the temporary experiment.

In the framework of such an experiment, which shall have **a term of seven years and foresee sufficient quantities**, Member States may be released from certain obligations laid down in Directive 66/401/EEC, Directive 66/402/EEC, Directive 68/193/EEC, Directive 2002/53/EC, Directive 2002/54/EC, Directive 2002/55/EEC, Directive 2002/56/EEC, Directive 2002/57/EEC, Directive 2008/72/EEC and Directive 2008/90/CE.

The Commission will assess the result of this experiment with a view to propose the **amendment of the requirements of the horizontal legislation on the marketing of seeds and other plant reproductive materials to the characteristics of the 'organic varieties suitable for organic production'.**



# ➤ “organic heterogeneous material”

## Regulation 2018/848

### *Recitals*

(39) In order to meet the needs of organic producers, to foster research and to develop organic varieties suitable for organic production, taking into account the specific needs and objectives of organic agriculture such as enhanced genetic diversity, disease resistance or tolerance and adaptation to diverse local soil and climate conditions, a **temporary experiment** should be organised in accordance with Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/53/EC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 2008/72/EC and 2008/90/EC. That temporary experiment should be **for a term of seven years, should involve sufficient quantities of plant reproductive material and should be subject to yearly reporting. It should help to establish the criteria for the description of the characteristics of that material and to determine the production and marketing conditions for that material.**

# ➤ *Possibility of multiplying seeds on the farm*

**Regulation 834/2007**

**Regulation 2018/848**

Article 6

Specific principles applicable to agricultural activities and aquaculture

In the framework of agricultural activities and aquaculture, organic production shall in particular be based on the following specific principles:

(...)

- (i) without prejudice to Article 14 of Regulation (EC) No 2100/94 and to the national plant variety rights granted under Member States' national law, possibility for farmers to use plant reproductive material obtained from their own farm in order to foster genetic resources adapted to the special conditions of organic production;



# ➤ *Databases for organic reproductive material (plants and animals)*

## Regulation 889/2008

### **Chapter 7 Seed database**

#### Article 48 - Database

1. Each Member State shall ensure that a computerised database is established for the listing of the varieties for which seed or seed potatoes obtained by the organic production method are available on its territory.
2. The database shall be managed either by the competent authority of the Member State or by an authority or body designated for this purpose by the Member State, hereinafter referred to as 'manager of the database'. Member States may also designate an authority or a private body in another country.
3. Each Member State shall inform the Commission and the other Member States of the authority or private body designated to manage the database.

#### Article 49 - Registration

1. Varieties for which seed or seed potatoes produced by the organic production method are available shall be registered in the database referred to in Article 48 at the request of the supplier.
2. Any variety which has not been registered in the database shall be considered as unavailable with regard to Article 45(5).
3. Each Member State shall decide in which period of the year the database has to be regularly updated for each species or group of species cultivated on its territory. The database shall hold information with regard to that decision.

## Regulation 2018/848

### Article 26

*Collection of data concerning the availability on the market of organic and in-conversion plant reproductive material, organic animals and organic aquaculture juveniles*

1. Each Member State shall ensure that a **regularly updated database** is established for the listing of the organic or in-conversion plant reproductive material except seedlings, including seed potatoes which is available on its territory.
2. Member States shall have in place systems that **allow operators** who market organic or in-conversion material and who are able to supply it in sufficient quantities and within a reasonable time period, **to make public on a voluntary basis, free of charge**, together with their names and contact details, the following data:
  - (a) **the organic and in-conversion plant reproductive material** except seedlings, **such as heterogeneous material, seeds and propagating material suitable for organic production** including seed potatoes, which are available; the quantity in weight of those materials and the period of the year of its availability. That organic reproductive material shall be listed using at least the Latin scientific name;

# ➤ *Databases for organic reproductive material (plants and animals)*

## Regulation 889/2008

### **Chapter 7 Seed database**

#### Article 51 - Registered information

1. For each registered variety and for each supplier, the database referred to in Article 48 shall contain at least the following information:

- (a) the scientific name of the species and the variety denomination;
- (b) the name and contact details of the supplier or his representative;
- (c) the area where the supplier can deliver the seed or seed potatoes to the user in the usual time needed for the delivery;
- (d) the country or region in which the variety is tested and approved for the purpose of the common catalogues of varieties of agricultural plant species and vegetable species as defined in Council Directives 2002/53/EC on the common catalogue of varieties of agricultural plant species (17) and 2002/55/EC on the marketing of vegetable seed (18);
- (e) the date from which the seed or seed potatoes will be available;
- (f) the name and/or code number of the control authority or control body in charge of the control of the operator as referred to in Article 27 of Regulation (EC) No 834/2007.

## Regulation 2010/848

(b) **the organic animals** for which derogation can be provided in accordance with point 1.3.5[ca] of Annex II, part II ;the number of available animals categorised by sex; information, if relevant, [relating] to the different species of animals as regards the breeds and strains available; the races, the age of the animals and any other relevant information]

(c) **the organic aquaculture juveniles** available on its holding and its production capacity for each aquaculture species and their health status in accordance with Council Directive 2006/88/EC

3. Member States **may** also set up systems which allow operators who **market breeds and strains adapted to organic farming** in accordance with point 1.3.4 of Part II of Annex II or **organic pullets**, and who are able to supply these animals in sufficient quantities and within a reasonable time period to make public the relevant data on a **voluntary basis, free of charge**, together with name and contact details.

4. **Operators** that opt to include information on plant reproductive material, animals or aquaculture juveniles in the systems referred to in paragraphs 2 and 3 **shall ensure that the information is updated regularly**, and shall ensure that the information is withdrawn from the lists once the plant reproductive material, animals or aquaculture juveniles are no longer available.



# ➤ *Databases for organic reproductive material (plants and animals)*

## Regulation 834/2007 & 889/2008

2. The supplier shall immediately inform the manager of the database if any of the registered varieties are no longer available. The amendments shall be recorded in the database.

3. Besides the information specified in paragraph 1, the database shall contain a list of the species listed in Annex X.

### Article 52 - Access to information

1. The information in the database referred to in Article 48 shall be available through the Internet, free of cost, to the users of seed or seed potatoes and to the public. Member States may decide that any user who has notified its activity in accordance with Article 28(1)(a) of Regulation (EC) No 834/2007 may obtain, on request, an extract of data concerning one or several groups of species from the database manager.

2. The Member States shall ensure that all users referred to in paragraph 1 are informed, at least once a year, about the system and how to obtain the information in the database.

### Article 53 - Registration fee

Each registration may be subject to the **levying of a fee**, which shall represent the cost of inserting and maintaining the information in the database referred to in Article 48. The competent authority of the Member State shall approve the amount of the fee charged by the manager of the database.

## Regulation 2018/848

5. For the purpose of paragraphs 1, 2, and 3, **Member States may continue to use already existing relevant information systems.**

6. The Commission shall make public the **link to each of the national databases or systems in a Commission dedicated website**, thus allowing users to have access to such a data throughout the Union.

7. The Commission may adopt implementing acts

(a) to provide technical details for establishing and maintaining the databases referred to in paragraph 1 and the systems referred to in paragraph 2;

(b) to provide specifications as regards the collection of data referred to in paragraph 1 and 2;

(c) to provide specifications as regards the arrangements for participation in the databases referred to in paragraph 1 and in the systems as referred to in paragraph 4; and

(d) to provide details as regards the information to be provided by Member States in accordance with Article 53(5).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

# ➤ *End of derogations*

## Regulation 834/2007

## Regulation 2018/848

### Article 53

#### Derogations, authorisations and report

1. **The derogations** from the use of organic plant reproductive material and from the use of organic animals provided in points 1.8.5 of Part I of Annex II and points 1.3.4.3 and 1.3.4.4 of Part II of Annex II, with the exception of point 1.3.4.4.2 of Part II of Annex II, **shall expire on 31 December 2035**.
2. **From 1 January 2028, based on the conclusions as regards availability of organic plant reproductive material and animals** presented in the report provided for in paragraph 7 of this Article, **the Commission shall be empowered to adopt delegated acts** in accordance with Article 54 amending this Regulation by:
  - (a) **ending the derogations** referred to in point 1.8.5 of Part I of Annex II and in points 1.3.4.3 and 1.3.4.4 of Part II of Annex II, with the exception of point 1.3.4.4.2 of Part II of Annex II, **at an earlier date than 31 December 2035 or extending them beyond that date**; or
  - (b) **ending the derogation referred to in point 1.3.4.4.2 of Part II of Annex II**. (non organic animals for breeding purposes)
- (...)
5. When extending the derogations or authorisations referred to in paragraphs 2, 3 and 4, the Commission shall do so only for **as long as it has information, in particular information provided by Member States in accordance with paragraph 6, that confirms the unavailability** on the Union market of the plant reproductive material, animal or feed concerned.
- (...)



# ➤ *Preference for varieties adapted to organic farming*

**Regulation 834/2007**

**Regulation 2018/848**

**ANNEX II TO THE ANNEX I**  
**Detailed production rules referred to in chapter III**  
**Part I: Plant production rules**

(...)

**1.8.3 When choosing organic plant reproductive material operators shall give preference to organic plant reproductive material suitable for organic agriculture.**

# THE « ORGANIC SEED » PROBLEM

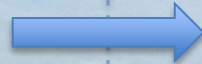
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At the seeds & PRM level

Currently:

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Reproduction under  
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during 1 generation only

“Organic” Seeds

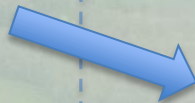
→ Insufficient:

- In quantity
- In varieties

→ leads to:  
DEROGATIONS to  
use non-organic  
seeds

In the future:

- « Organic  
Heterogeneous  
material »
- «organic varieties  
suitable for OP »



« Organic Seeds »

→ Sufficient:

- In quantity
- In varieties

→ END of  
DEROGATIONS





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AND HUMAN RIGHTS DEFENDERS

*Thank you for your attention*

Blanche Magarinos-Rey  
Brussels, 16 October 2018