



EMERGENCY CALL OF *SPP Global* FOR THE DEFENCE OF SMALL ORGANISED PRODUCERS IN THE APPLICATION OF THE ORGANIC REGULATION OF THE EUROPEAN COMMUNITY FROM THE UE REGULATION 2018/848

Nurnberg, Germany, February 13, 2020

A:

- COMPETENT AUTHORITIES OF THE EUROPEAN COMMISSION
- COMPETENT AUTHORITIES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN COMMUNITY
- EUROPEAN PARLIAMENT
- LEGISLATIVE POWERS OF THE MEMBER STATES OF THE EUROPEAN COMMUNITY

Through this letter, *SPP Global* strongly appeal to the competent authorities and legislative powers of the European Commission and its member states to formulate the certification of organic products Regulation in such a way that it does not seriously harm participation in the European market by small organic producers organized in different continents. By doing so, it is possible to avoid a debacle in the survival of millions of people. It is also possible to avoid damaging a successful model of production, marketing, and consumption that has historically made beneficial and significant ecological and economic contributions to all citizens of the world and the ecological balance of the planet.

Small Producers' Symbol Global (SPP Global) is an intercontinental network of organic small producers' organizations. We fight for recognition of our high-quality products and work towards a dignified life and a healthy planet for all.

At SPP, we work in partnership with committed companies and consumers around the world. An independent certification system supports us. We are hundreds of thousands of families of small producers from 25 countries in Latin America, Africa, and Asia. We work every day to bring to the consumer's table a healthy product, always respecting sustainability and environmental conservation.

Firstly, we would like to point out that the participation of these producers from the global South - with an average production of less than two hectares - in the European market has served as one of the few effective levers for millions of small producer families in the world to have a decent income and the possibility of sustainable development of communities, local, national and regional economies. In this way, small organic producers are a factor in mitigating the problems of rural impoverishment, migration, ecological devastation, and even the production of substances of illicit use.

Secondly, we call for awareness of the importance that small ecological producers, particularly organic ones, have had in generating positive impacts on environmental conservation, the preservation, cleaning and regeneration of the land, groundwater and air quality in production areas, with significant positive contributions to the global ecosystem, for the benefit of a healthy planet and world population.

Thirdly, these organized small producers are the principal suppliers of many vital products, such as coffee, tea, and cocoa. For more than a hundred years, these products have been an elementary part of the European market's consumption patterns and have generated a robust European processing and marketing industry, which is still developing and is now an essential part of European culture and economy. Small organic producers in the global South have been, in particular, the principal suppliers of organic versions of these raw materials in Europe.

Although organized small-scale producers in different countries have been promoters of third-party certification, over the last decades, this type of certification, as a result of increased regulations, has

become increasingly inaccessible. The cost of inspection and certification work by accredited Certification Entities has increased, including field inspection work on a considerable sample of plots, unannounced inspections, laboratory analyses, transaction certificates.

If it were not for the existence of the 'group certification' modality, initially promoted by the small producers' organizations of the South and supported by precise Internal Control Systems, developed by the same organizations, the small producers of the global South (Latin America/Caribbean, Africa, Asia) would not be able to access organic certification due to the prohibitive costs of individual certification. The economy of scale generated by the inclusive organization of small producers has been the key to their survival and progress. We welcome the fact that group certification under the new law will be an option for small producers in Europe as well. This implies confirmation of the relevance and feasibility of this certification modality.

Small organic producers in the global South have suffered in recent years a powerful impact on the problems of pollution caused by the marketing and indiscriminate application of agrochemicals such as glyphosate, chlorpyrifos. Besides, consumer protection legislation has drastically changed the permitted levels of certain natural elements such as cadmium in the case of cocoa. These phenomena have increased the costs of production and quality control and organic certification of the groups of small producers in a vertiginous way, without being the structural causes of the presence of toxic elements in the production.

We, therefore, ask the European Commission to ensure that the secondary regulations currently being formulated take into account our realities and concerns, based on the likely impacts, particularly concerning those articles applicable to the Regulation of 'operator group' certification. This modality of certification for small producers has been the only way to access organic markets since it allows the reduction of direct and indirect costs of certification to levels that allow the economic viability of their activity.

We are convinced that approved regulations and those that are in the process of being approved by the European Commission aim to generate greater security and credibility for organic products consumers in the European Union. We wholeheartedly subscribe to these objectives as a high priority, even for the sake of small organic producers and the entire global organic sector. However, we believe that some of the measures adopted and proposed may have an unintended and unnecessary negative effect, and we, therefore, suggest their revision and adjustment.

In particular, we express the following concerns:

1. Legal requirements for 'operator groups' to be certified

Regulation EU 2018/848, to enter into force on 01/01/2021 (Art. 61), specifies the requirements for the applicability of the certification of groups of operators in its Article 36.

Among these requirements, it is requested that the groups of operators to be certified (producers with processing and marketing activities, according to its point 36.1.a) have their legal status (point 36.1.d) and that they are composed only of members that comply with the criteria of maximum unit size (point 36.1.b).

The current regulatory framework (EU 834/2007; EU No. 889/2008) does not have this restriction. In other words, currently, those producers who exceed the unit size criteria, although they must be certified individually, can be part of the group of operators to be certified.

Certification of operators' groups is currently carried out based on Internal Control Systems, regardless of the legal form of the organization or group in question. With the changes of the new Regulation, the two elements, the certificate coverage and the legal membership, are directly linked.

Following paragraph 36.1. a, we understand that these provisions are not intended to require groups of operators engaged in processing and marketing activities - in addition to primary production - to have separate certificates for their production, processing, and marketing activities. However, in the international discussion forums on the interpretation of Regulation EU 2018/848, we have seen confirmation of the fear that in practice, the law can be interpreted in this way, which is why clarification is required at the level of the Secondary Regulation under discussion.

On the other hand, we consider valid the intention of this Regulation of the European Commission that producer groups end up being owners of their organic certificate and the producer's certificate cannot be in hands of the trader/exporter, for the sake of the producers' fundamental rights and their democratic structures and for the sake of eliminating possibilities of fraud in product flow traceability.

Expected impacts and consequences:

- 1.1 A vast majority of small producers' organizations in countries outside Europe have a wide variation in the size of production units and would have to expel producers who will not be part of the certificate from the organizational structure. This would be unfair to historical members of these organizations and would undermine the economic viability of these groups of operators, through possible reductions in the supply of certified products.
- 1.2 This Regulation could imply, as has been mentioned in spaces of discussion of the Secondary Regulations, that producers who are not subject to organic certification could not be part of the Internal Control Systems either, which is currently allowed. This increases the obligation of the disintegration of the current membership of the organizations in some instances.
- 1.3 Second- or third-level producer organizations (associations, cooperatives, federations, confederations) could not be certified directly, because their members are not the producers themselves, without the first or second level associations. The literal interpretation of the Regulation EU 2018/848 means that it would affect a large number of organized small producer organizations, built up through long and intensive historical processes. These organizational structures would be forced to certify each of their base organizations separately, which would multiply the corresponding legal, fiscal and administrative costs of certification, reaching a level of the unfeasibility of organic certification valid in the European market.
- 1.4 If the new Regulation were interpreted in such a way that groups of operators engaged in processing and marketing activities would have to have separate certificates for each activity, these organizations would have to incur significantly higher direct and indirect costs to obtain the various corresponding certificates, seriously affecting their economy.

Proposals:

- 1.1 We propose to specify in the Secondary Regulations that external certification can be based on the Internal Control System, not necessarily on the composition of the legal structure of the producer organization.
- 1.2 Besides, we ask to specify that the internal control systems may cover second and third level organizations, including their primary organizations and producers, without the need for individual certificates for each group.
- 1.3 We also request to remove any ambiguity regarding the possible erroneous requirement for separate certificates for the processing and marketing processes of the operator groups.

2. Characteristics of the members of the operator groups

The maximum unit size criteria of EU Regulation 2018/848 (point 36.1.b) specify that the members of the group must meet the criteria of i) production cost more significant than 2% of turnover, with a maximum of EUR 25,000 of annual organic production turnover or that their production unit ('holding') does not exceed 5 ha, 0.5 ha of greenhouses or 15 ha of permanent pasture.

In discussions surrounding the interpretation of this part of the article, controversies have arisen over whether these are cumulative or independent criteria. In the Spanish version analyzed, there is a clear reference to independence, as the word 'o' (or) is used between the two criteria. However, there are indications of confusion about the application of these criteria.

In practice, we see that in the groups of organic operators, there are producers who have acreage and a business value higher than indicated parameters because these are high productivity products, such as bananas, and at the same time with shallow profit margins and high production and living costs. These are producers who also need to be able to make economies of scale through their organizations or cooperatives to be economically sustainable.

In recent international discussion forums on possible provisions of the secondary Regulation to EU Regulation 2018/848, the European Commission's intention to establish a limit on producer group members to be certified has been known. Initially, the maximum number of 500 producers was mentioned, and recently, the reference of 1,000 producers has been used.

Unlike Europe, in the different continents of the Global South (Latin America and the Caribbean, Africa, and Asia), there are multiple organizations with several thousand members, even tens and hundreds of thousands of producers. Often these are small, micro, and even nano-producer organizations. The construction of these second- and third-level organizations is generally due to a historical consolidation process that has precisely allowed these producers to access export markets and generate added value for their products and to ensure a dignified life and a healthy environment.

We understand that the European Commission seeks to improve the quality and prestige of certification for the benefit of the consumer and the organic market players themselves. However, we consider that the cost of this measure, in terms of negative socio-economic impacts in other regions of the world, would not justify or compensate for the negative consequences. We are convinced that the quality and reliability of certification does not depend in the first place on the number of operators involved.

Expected impacts and consequences:

- 2.1 Not being able to be part of small producer organizations, these producers of high value and/or low margin productivity products would have to leave their organization and would have to be certified and marketed individually, which would not be economically viable. The most successful small-scale producers would even be forced to leave the cooperative sphere and turn to private intermediaries because they do not have a large enough scale to make a direct sale. This would lead to the economic unfeasibility of these producers.
- 2.2 If a limit of 1,000 producers per organization is applied, hundreds of thousands of small producer families could see their ability to export their products to the EU market affected. More substantial organizations would have to break up their organization into fragments and thus multiply their expenses, not only for certification but also for organizational, administrative, and fiscal costs. The operational burden involved in a transition to adjusted organizational models would have a paralyzing impact that does not respond to the local and historical realities and

needs of these groups of operators. These measures reduce efficiency and the possibility of benefiting small and micro-producers from economies of scale.

Proposals:

- 2.1 We propose to specify in the Secondary Regulations that the size and maximum income limits of producers in a group of operators may be variable, depending on the product characteristics and production region, possibly to be specified in subsequent legal agreements.
- 2.2 We ask the European Commission not to introduce a limit on the producers' number that can be part of a single Internal Control System, and above all, of a single legal entity, be it a first, second, or third level one.
- 2.3 We propose to the European Commission to draw up a set of alternative criteria for evaluating Internal Control System quality based on existing good practices in different small producer organisations of different sizes around the world.

3. The sample calculation formula for external inspection

In discussions on the Secondary Regulation of the EU 2018/848 law, the European Union's intention to change the formula for calculating the sample for external inspections of operators who are part of a group of operators has become known.

Under the current regulations, a sampling formula is applied that starts with the following elements:

- A minimum of 10 operators
- The square root of the number of producers in the group
- The application of a risk factor

The proposal that has been under discussion is to apply 5%, without making it clear whether a risk factor would also apply, as is currently the case. Also, there is, apparently, an intention to maintain a lower limit of 10 operators.

As in the case of limiting the number of producers, we believe that, while more excellent reliability of certification is pursued, the negative impact is disproportionate to the benefits.

As we have pointed out, organizations with large numbers of small producers generally group producers who need to achieve a sizeable collective scale of operations to achieve adequate and competitive market access.

The alleged permissiveness of organic certification entities in certifying large groups of small operators has been pointed out in different publications, mainly because of the substantial commercial risk involved in an eventual suspension or decertification. We believe that the solution to this problem should not be sought in measures that raise the costs to small producers to stratospheric levels but through greater quality control of the work of the Certification Entities and quality specifications of the Internal Control Systems.

Impact and consequences

- 3.1 Applying a 5% rule instead of the square root would severely impact operator groups with more than 400 members, concerning the number of producers to be inspected by the Certification Entity, and therefore in terms of costs. For organizations of several thousand producers, the increase in sample size and corresponding costs would be exponential and prohibitive.
- 3.2 In the case of applying a limitation of 1,000 producers per entity, which we believe is undesirable, the impact of this change in the calculation formula for sampling is reduced. However, it would



still significantly affect the groups of between 400 and 1,000 producers, diminishing efficiency, competitiveness, and, therefore, economic viability.

Proposals

- 3.1 We propose to maintain the current scheme of sample calculation based on the square root method and the application of the relevant risk factor. Additionally, complementary rules could be established to guarantee the quality of the evaluation made by the Certification Entity of the reliability of the Internal Control System of a group of operators, such as, for example, higher precision in the application of risk factors.
- 3.2 We put to the consideration of the European Commission the need to generate legal instruments that serve as a guide of criteria for the accreditation of the Certification Entities of this Regulation for the organic sector. In this way, it is possible to homogenize and guarantee the high quality of the inspections carried out by the Certification Entities and avoid unfair competition between these entities.

In addition to the proposals mentioned above, we ask the European Commission to consider the necessary adjustment to Regulation EU 2018/848 if the appropriate wording of the Secondary Regulation is insufficient.

On the other hand, the small organic producer sector is interested in the new Regulation for the sector being of high quality, efficiency, and applicability. If some of the articles require further review, analysis, and discussion, we suggest an extension of the current regulatory framework and precision of transitional periods for the entrance of new regulations. The small producer's sector is willing to actively collaborate in any revision process and in formulating alternatives to guarantee the credibility and prestige of organic certification in Europe.

We call on the European Commission to take into account that the realities and living conditions in which small producers in other continents live and produce are not necessarily similar to those of the members of the groups of operators within the European Community itself and that the European market needs to be supplied with the products produced by these producers and to take joint responsibility for global economic and ecological sustainability. The adaptability of the different stipulations of this Regulation to different realities is of vital importance for its success, without putting at risk the reliability of the European organic certification system.

By taking into account our considerations, the European Commission will avoid a catastrophe in the global segment of small organic producers on several continents.

We reiterate our willingness to clarify our views before any internal body of the European Community, seeking a profoundly constructive dialogue.

Sincerely,

Nurnberg, Germany,

February 13, 2020.

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You are invited to sign this statement here:

<https://forms.gle/ifKiNrep1h99ityqZ>