

### An introduction: New rules on organic seeds and group certification

The new EU Organic Regulation, which enters into force in January 2021, brings new possibilities for organic farmers, organic plants breeders, and seed savers:

1. New rules allowing the unrestricted marketing of seeds that don't belong to a registered variety, so-called organic heterogeneous material
2. A new category of organic varieties suitable for organic production and a seven-year evaluation that could lead to changes in the (DUS) assessment for the registration of these varieties
3. The possibility of organic group certification for groups of small actors

These provisions will apply directly in all EU Member States from 1 January 2021.

#### **Organic heterogeneous material**

EU law generally only allows seed to be marketed that belongs to a registered variety. The DUS criteria (distinct, uniform, stable) for the registration of new varieties prevents many seeds from being marketed, as the plants are not sufficiently uniform. There are two existing derogations from this regime – for conservation varieties and amateur varieties (varieties “with no intrinsic value for commercial production”) – but in both cases restrictions are applied to how the seed may be marketed.

From 2021, organic seeds that do not meet the definition of a variety because they lack uniformity, such as landraces, may be marketed without prior variety registration or certification, and without restrictions. Instead, only a (free) notification, three months prior to marketing, must be sent to the national seed authority with some information on the so-called heterogeneous material. (The detail of information and the quality standards applying to the seeds, e.g. on germination, may still be set out in secondary legislation by the European Commission.) The authority can check this information for completeness, but will not conduct any field or laboratory tests. Plant variety protection (“breeders’ rights”) cannot be applied to this material, as it does not meet the legal definition of a variety.

**In brief:** This new category will make it significantly easier (and cheaper) to market seeds that do not meet the legal definition / uniformity test of a variety.

**Who benefits:** This creates new possibilities for organic breeders as well as for organic farmers who want to market seeds and (organic) seed saver organisations who want to market their own seeds.

#### **Organic varieties suitable for organic production**

The Regulation also creates a new kind of variety. To be suitable for organic production, in which greater emphasis is put on the natural abilities of plants, these varieties must possess a higher degree of phenotypic and genetic diversity than conventional varieties to allow for

March 2018

greater resilience to adapt to changes in the external environment. Under this new category, breeding must take place under organic conditions.

The Commission has committed to carry out a seven-year “temporary experiment” (similar to the current experiment on cereals populations) during which experience with “organic varieties suitable for organic production” will be collected in participating Member States (they will have to opt-in to the experiment). Based on the results of the experiment, the Commission will assess whether the (DUS) criteria for the registration of new “organic varieties for suitable for organic production” should be adapted to allow for greater diversity. The Commission will provide further detail on the experiment in due course.

**In brief:** There will be a new category of seeds called “organic variety for suitable for organic production”. It is likely that the DUS variety registration criteria will be amended for these varieties after a seven-year “experiment” to gather experience and results of these varieties.

**Who benefits:** Primarily organic plant breeders who could benefit from adapted DUS criteria for their varieties in future.

### **Organic group certification**

The Regulation creates the possibility for small-scale organic farmers and growers who produce similar products in the same region and have a joint marketing system to apply for organic certification as a group. To be eligible for group certification, holdings must either have a maximum of 5 hectares (0,5 if greenhouses; 15 hectares if permanent grassland) or the cost of certification must represent more than 2% of its turnover of organic production (in the latter case certain limits on annual turnover from organic production also apply).

The European Commission will set out further detail on the eligibility criteria (e.g. the definition of a region) and arrangements for group certification before 2021.

**In brief:** Small-scale farmers and growers will be able to apply for organic group certification.

**Who benefits:** Small-scale organic farmers and growers as well as members of seed saver organisations who multiply seeds under organic conditions.

**Note:** The new EU Organic Regulation is due to be adopted formally in May 2018. At this point the full text of the Regulation will be made available in all EU languages.

Further detail on the new provisions be found (in English) on the ARCHE NOAH homepage: <https://www.arche-noah.at/english/policy/seeds-in-organic-agriculture>

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