

# **BÖLW Statement on the EU Commission Proposal for a new Regulation on Organic Production and Labelling of Organic Products**

## **I Evaluation of the proposal of the EU Commission for a new EU Organic Regulation**

On March 25, 2014 the EU Commission (EC) introduced a proposal for a new EU Organic Regulation to the public and into the legislative process. EU Commissioner Ciolos introduced the Regulation proposal under the title “Organics: More and better” as well as a new EU Action Plan on the Future of Organic Production in Europe.

After exhaustive consultations with BÖLW<sup>1</sup> member organizations, experts from government agencies and federal research facilities as well as in coordination with European partner organisations, BÖLW concludes:

The proposed Regulation is entirely unsuitable to support further positive development of the organic sector in Germany and Europe.

On the contrary, implementation of this Regulation could lead to precisely what the EC describes in its commissioned impact assessment<sup>2</sup>. Namely, the volume of organic products on the market at the beginning of the period could be lower than in the baseline scenario. This would have various negative consequences for organic processors and traders.

Instead of “more and better” organic agriculture and food, the proposal will have the opposite effect. It contradicts both the interests of the majority of the public, which values the positive environmental benefits of organic agriculture as well as the operators, which voluntarily comply with additional statutory regulations for more sustainability. In this way the politically desired shift to an organic and ecologically sustainable agriculture and food production will be thwarted by the Commission. Additionally, the role of organic agriculture in stimulating rural development is jeopardized.

### **Evolution of the proposal**

The impetus for the review of the EU Regulation was criticism from the European Court of Auditors which was directed especially at the EU Commission and the control authorities of the Member States and referenced the inadequate fulfilment of their respective functions in the control system. Cases of fraud concerning counterfeit organic feed from Italy and Romania exposed deficiencies in the system. Specifically, Europe-wide communication and coop-

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<sup>1</sup> German Association of Organic Farmers, Food Processors and Traders.

<sup>2</sup> IMPACT ASSESSMENT Accompanying the document Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL Page 52; 24. March 2014.

eration of authorities and their control bodies in the affected Member States were to be improved. The organic sector itself demanded effective and investigative controls and had already drafted concrete suggestions to this end.

Rather than further developing these suggestions within political measures at EU level as well as in Member States, the EC began considerations for a new and complete revision of the previous EU Organic Regulation, which had recently come into effect in 2010. Up to that point, the organic sector had demanded that the Commission set a different Europe-wide priority: improvement in the implementation of controlling as well as further development of import rules.

The cause of the existing and entirely inadequate Regulation proposal lies in the EC's impact assessment initiated in 2012 and completed in 2013. Early on, the Commission chose option 3, the so called "principle-driven option" from among several policy options.

An external, scientific evaluation of the existing EU Organic Regulation was commissioned concurrently with the impact assessment. However, the EC did not wait for the results and conclusions before selecting a course of action. Instead, replies to a general online consultation on European organic agricultural policies were held up as the reason for a total revision. The questions in the online consultation were suggestively worded towards strengthening of existing production rules and made plain the true intentions of the EC: It wanted to justify why stricter provisions for Organic Agriculture were legally necessary, for example to totally eliminate unintentional (e.g. pesticide) contamination in organic food. Approximately 45,000 replies were submitted, largely from French consumers. The consultation is not in line with standards for empirical social research, either methodologically (types of questions) or representatively (random participation of anonymous internet users).

### **The Regulation proposal is based upon an insufficient analysis of the current state of affairs**

During the EU Commission hearings, representatives of the organic sector and other stakeholders criticized the underlying assumptions of the impact assessment and especially the composition of the measures outlined in option 3. This option is inconsistent. The choice of this policy option was based on false assumptions and weak or non-existent data.

From an expert point of view, it is to date unclear why policy option 1 "improved status quo" was not chosen in combination with advantageous elements from policy option 3 "principle-driven option". The organic sector could have supported this choice and so participated in its introduction and implementation.

The choice of option 3 allows for the conclusion that the politically desired outcome was determined prior to the impact assessment: namely to justify the proposed Regulation under the guise of improved consumer protection relegating the organic sector to a market niche.

Furthermore, in its evaluation of stakeholder hearings, the EC fails to recognize that Organic Agriculture is not solely the result of state initiative and legislative activity. Further development of the organic agricultural and processing sectors is in fact significantly determined by investment of market participants and through growing consumer acceptance.

### **Our demand: Make use of farmer, processor and trader know-how**

BÖLW believes that the legislative authorities are responsible for creating fair and secure market conditions. In order to do that, the authorities must sufficiently consider the competencies of all participants in the value-added chain.

The current text of the EU Organic Regulation is based upon the many years of experience of the organic sector. As competent market participants, the associations of farmers, processors and traders have accompanied EU bodies and national government agencies in forming and further developing of the European legal framework in an advisory capacity for more than two decades. The regulations were further developed based on quality orientation, became successively more detailed and their scope more comprehensively defined. The process of constructive and continual update is a proven method and should be pursued consistently.

Even if the EC is of a different opinion, the inclusion of experts and stakeholders from the entire organic sector is indispensable during deliberations on the present Regulation proposal from the EC as well as during further development of the EU Organic Regulation.

### **Missing the mark with the most possible effort**

The EU Commission's stated goals for revision seem noble enough at first: ensuring consumer confidence, ensuring the confidence of producers and making it easier for small farmers to convert to organic production. However, these goals will not be met even remotely by the proposed Regulation.

Instead of actually removing existing obstacles, which impede the sustainable development of organic production in the EU, market participants will be saddled with additional burdens. Several of the proposed Regulations lead to the construction of additional, significant hurdles for the conversion to organic farming and increased bureaucratic red tape in their implementation.

In consequence, implementation of the proposal would lead to a decline in organic agriculture in Germany and a reduced supply of domestic, regional organic foods. Furthermore, less environmental benefits for climate, water and wildlife conservation would be generated in Germany. At the same time, the proposal does not offer any substantial improvements with regard to the presently effective Regulation. It does not contribute to increased consumer confidence.

### **For these reasons, BÖLW decidedly rejects the proposal of the EU Commission for a new EU Regulation on Organic Production and the Labelling of Organic Products.**

During the ongoing revision process, BÖLW will lobby the German federal government within the European Council to reject the proposal of the EU Commission and demand that the EU Commission concentrate all its efforts on the revision of the existing EU Organic Regulation. We uphold this same goal with respect to the members of the new European Parliament (EP), which will convene on July 1, 2014.

A new Commission proposal should be geared toward the policy option "improved status quo", for which the existing legal framework offers a solid basis. This assessment is supported by statements from an ex-post evaluation report of EU Regulation 834/2007 from the

Thünen Institute<sup>3</sup> clearing the way to carry out necessary improvements in the existing Regulation. It is also possible that the necessary changes be made in a timely fashion and not first until 2017. BÖLW and the International Federation of Organic Agriculture Movements (IFOAM) have already made extensive suggestions for further development of the existing EU Organic Regulation.

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<sup>3</sup> Sanders, J. (ed.) 2013: Evaluation of the EU legislation on organic farming. Brunswick: Thünen Institute of Farm Economics

## **II Expert Statement on the Regulation proposal of the EU Commission to revise the EU Regulation on Organic Production and Labeling of Organic Products from 25 March 2014**

Farmers and other operators in the organic sector need a secure legal framework in order to be able to plan reliably. Legal security builds the foundation for entrepreneurial dedication and fosters willingness to invest, leading to increased market growth. Legal security is achieved through regulations that are clearly and comprehensively worded as well as through established and practically tested regulations that continue to be developed. In the following selected points, we will show where, in the opinion of BÖLW, the EU Commission is failing to follow its self-proclaimed revision goals for the EU Organic Regulation and by doing so endangers legal security for the organic sector in the EU.

### **1. New Structure: incomplete and inconsistent**

The proposal submitted by the EU Commission (Regulation text in conjunction with Annex I, Annex II, Parts I – VI as well as Annexes III-V) was entirely restructured and major content changes made. It encompasses the current Regulation 834/2007 as well as the Rules for implementation 889/2008. The old Annexes from the Rules for implementation were incompletely included in the proposal or are missing entirely.

**Assessment:** The structure of the Regulation proposal seems at first to be in line with the objective to create less complex legislation. The material rules of the base Regulation are less complex and less sophisticatedly worded. However, the Regulation is supplemented with extensive Annexes so that no actual trimming has occurred. Moreover, in the proposal there are a total of 42 authorizations delegated to the Commission to establish further detailed rules rendering thus the submitted proposal largely indeterminate.

The proposal exhibits considerable gaps as important annexes are missing (positive lists for authorized fertilizers, plant protection products, feed, additives and processing aids and authorised oenological practices). An outdated and insubstantially revised list of non-organic ingredients was included in the proposal and no suggestion for the reform of the exceptions for non-organic ingredients was made. The Regulation proposal is, therefore, incomplete and does not meet the current demands of the organic sector. For years, the organic sector has desired that the Annexes to the EU Organic Regulation conform to the current state of development of science and practice. Existing proposals from the organic stakeholders as well as from the expert group for technical advice on organic production (EGTOP) on this topic have been implemented not at all or only in part up to this point. How the further development of these lists can occur more quickly and comprehensively within the framework of the new Regulation remains uncertain.

Due to the absence of important material regulations, the restructuring of the text and the resulting necessity to reconsider widely the interpretation of the Regulation, significant legal uncertainty will result for all market participants. Technical errors in the Regulation proposal make for further ambiguities. Important terms used in the Regulation such as “region”, “size of stock” or “integrity” are not defined or the elaborated definitions are not internally consistent (see Article 3 in particular). Also text passages were displaced resulting in logical errors. For example, the processing rule delineated in Annex II Part IV, 1.6 has gone from a delegated power to a requirement for producers, which is not applicable due to the legally

ambiguous terms used there. Moreover, additional inconsistencies and errors can be found in the German translation when compared to the English version (for example, the wording “by/with GMO” (Article 3 and Article 9), the use of the terms area/region (Annex II Part II) or the erroneously adopted conversion deadline for the sale of pre-packaged foods (Article 43)).

## **2. Expanding delegated powers instead of clear rules**

Article 2, Articles 7 through 8, Articles 10 through 33, Articles 41, 42 and 44 of the proposal name 30 delegated acts as well as 12 implementing acts through which the EU Commission is given authorization to adopt further acts with detailed rules in many areas of the Regulation.

**Assessment:** The number of authorizations has increased with respect to the (EC) 834/2007 from 30 to 42. Many of the revisions presented in the proposed Regulation are not at all or only included as fragments in the legislation text and dependent upon the creation of further delegated acts or implementing acts. This means that significant decisions are being put off onto future legislative processes. This pertains especially to production rules for organic farming (Articles 8, 10, 11, 12, 16, 17, 19, 20) and processing (Articles 13 through 20) as well as control rules (Articles 24 through 26 and especially Article 44).

The delegated acts give the EU Commission more room for restructuring and create legal uncertainty, because in many areas the proposal only becomes practical with the further defining of production and control rules. This is especially true of new areas included in the Regulation such as the introduction of an environmental management system for producers and traders (Article 7 (1d)) or the introduction of group certification for farmers with less than five hectares, for which further criteria in later acts are supposed to be defined (Article 26 in conjunction with Article 3 (7)). This approach is more critical still in instances such as the introduction of new thresholds for determining the quality of organic products, which contradict the basic approach to “organic” (Article 20). It is, however, not the function of delegated acts or implementing acts to leave fundamental parts of the Regulation ambiguous. Rather they are intended as regulatory components, which require many changes and for which the baselines are already defined. However, these baselines remain absent in many areas of the submitted proposal.

This is even more relevant within the scope of control provisions in Article 44, where important questions such as the requirements for risk evaluation, the frequency of controls, methods and techniques as well as measures in case of non-compliances are not defined until later in the delegated acts so that the overall character of the organic controls remains unclear in the submitted proposal.

**3. A crumbling foundation: the scope** Article 2 in conjunction with Annex I and Annex I of the Treaty on the functioning of the European Union (TFEU) defines the scope through a positive list in the Lisbon Treaty (Annex I) and a positive list in Annex I of the Commission's proposal for revision of the EU Organic Regulation.

**Assessment:** Uncertainties and inconsistencies arise from the intersection of Annex I of the Lisbon Treaty and Annex I of the EU Organic Regulation. For example, it remains unclear which processed products fall under the Regulation as the individual naming of processed products in a positive list in Annex I could be interpreted as an exclusion list compared to other processed products. With a series of other products there arises the question of

whether these continue to fall within the scope. In contrast, a non-agricultural product like sea salt is now completely inconsistently included in the scope. Mass catering, however, will in future no longer fall within the scope of the EU Organic Regulation.

The newly defined scope is neither clear nor internally consistent, but rather creates legal uncertainty, which most likely must first be resolved in extensive legal proceedings. The EU Commission thereby fails to achieve its self-proclaimed objective of a clear regulation. This is even more troubling as the scope constitutes a significant basis for every regulation. If the scope is incorrect, then the approach to the Regulation has missed its mark and the rules that build upon it are not feasible for operators.

#### **4. Organic-specific thresholds: turning away from proven organic principles**

Article 20 determines that for organic products not the usual thresholds for residues or contamination are valid, but rather that these can be separately defined according to the Baby Food Directive (2006/125). If products or substances not authorised under Article 19 are detected in amounts over the threshold, they may not be marketed as organic products. According to recital 51, organic farmers should be required to avoid contamination from non-authorised substances. The EU Commission can adopt delegated acts to determine the threshold levels and certain criteria and conditions for their use. Member States will have the option of granting payment to compensate losses to affected farmers if their products cannot be marketed as organic due to elevated contamination levels.

**Assessment:** With this Regulation proposal, the EU Commission surrenders the process-oriented understanding of organic production.

The now product-oriented approach would result in the fact that complying with the following process criteria not being considered in the assessment of the authenticity of the organic products: not using chemically synthesised pesticides, readily soluble mineral fertilizers or certain additives as well as providing generous indoor areas for livestock in housings, putting them out to pasture or the use of organic feed. This approach would lead to the decision of whether or not a product is “organic” being reduced to compliance with certain threshold levels.

This is a massive break from the proven model of the organic sector’s process-oriented quality concept. We reject this proposal and believe that it is inadequate.

The reorientation also leads to significant additional costs as every product must be analysed at every stage of the value-added chain in order to avoid false labelling. This will make organic products more expensive and push them out of the market. The running quality assurance costs will not be absorbed by the planned compensation mechanism, especially since it is only intended for farmers and does not include downstream processors and traders. The compensation mechanism shows that the EU Commission recognizes that damages can arise, for example from pesticide contamination.

Moreover, the compensation mechanism is not designed extensively enough. If, for example, a winemaker loses his entire harvest for the year because of pesticide contamination from his neighbour, he also loses his clientele, because they must find an alternative. Consequently, the wine maker must rebuild a new customer base. However, he would not be compensated for the ensuing costs based on the provisions as currently planned.

Our experience shows that hardly any producers of organically produced agricultural products take these risks. The new organic-specific thresholds especially will drive organic farms from regions small structured cultivation as there is an increased risk of contamination. Quality assurance costs will rise and the resulting increased costs of organic production in these regions will probably drive producers from the market. This regulation proposal will damage the organic market massively and is for this reason unacceptable.

## **5. Less flexibility due to elimination of exceptions and transitional rules**

In Articles 10, 11 and 17 in conjunction with Annex II Part I point 1 and Part II point 1 as well as in Annex II Parts V and VI the possibility for national exceptions was deleted. Also deleted was Article 22 (“flexibility”) of the (EC) No. 834/2007. Article 40, however, allows for transitional measures up to the year 2021 within the framework of delegated acts for the purchase of plant reproductive material, breeding animals and young stock for aquaculture.

**Assessment:** The EU Commission intends largely to do away with EU-wide and national exceptions for agricultural companies. The production rules are supposed to be strengthened and harmonized. For a few especially critical sectors such as seed and breeding animals there at least will be transitional measures. In cases of catastrophic circumstances, fallback regulations are also foreseen for the farms. For other sectors, in which the hereto existing state of supplies is just as critical, for example with protein feed, there is no longer any national flexibility in case of supply shortages.

In principle, BÖLW supports the harmonization of legislation and their implementation. Such advancement allows fair competition for farmers and other operators as well as a more efficiently functioning of the internal market. Organic agriculture should be possible in all European regions. Therefore, the varying climatic and natural conditions as well as the socio-economic differences in the EU Member States must be considered.

The present legislation and transitional rules are the basis for organic agriculture, which is adapted to the specific conditions in the European Member States. The existing transitional periods in the EU Organic Regulation in the areas of feed, seed and vegetative propagation materials as well as breeding and young animals enable step-by-step market development and ensure the availability of organic foods.

The elimination and undifferentiated cancellation of transitional rules would, however, lead to significant areas of production falling away and the positive development of organic agriculture in certain EU regions would be jeopardized.

### **Selected examples:**

- Annex II Part 2, 1.3 directs that generally all purchased livestock must originate from organic farms.

**Assessment:** In future, regional characteristics will not be able to be adequately considered, resulting in the decline of agro-biodiversity on organic farms. Furthermore, organic livestock production will be disconnected from general breeding advancements and would no longer be sustainable.

- Annex II, Part 2, 1.4.1 (b) directs that feed must be from 100 percent organic production.

**Assessment:** The possibility of purchase of five percent non-organic protein feed for pigs and poultry will no longer apply before a sufficient supply of the organic product is available. A supply adapted to the requirements of the animals would scarcely be possible. This would lead to a significant decline in organic livestock production.

- Annex II: Part 2, 1.4.2 dictates that only organic plant reproductive material is allowed for organic farms. Exceptions are made for conversion, research and testing.

**Assessment:** A supply of seed and plant reproductive material from organic production with cultivatable and marketable varieties is not yet present in many areas and must therefore be consistently developed. At the present time, such a strict regulation would severely limit farmers, fruit and vegetable farmers as well as wine makers. In consequence, regional characteristics cannot be sufficiently considered, so that organic farming will be disconnected from breeding advancements. BÖLW warns that entire production areas will probably disappear.

## **6. Processing and labelling of organic products: Necessary changes further postponed**

Article 13 and Annex II Part IV set production rules for processed food and feed. The EU list for non-organic ingredients was shortened and adopted, national possibilities for exceptions for non-organic ingredients up to five percent in foods of the (EC) No. 834/2007 have been omitted. Positive lists for additives and technological adjuvants in organic foods as well as approved oenological practices in wine making are missing. For the labelling of organic products (Articles 21 through 23) the required EU logo for pre-packaged foods from the EU will in future be replaced by an official attestation and the rules for labelling of origin changed.

**Assessment:** The proposed regulation not only presents significant gaps but also does not in any way advance the further development of the processing rules and is misguided in terms of labelling of organic products. Positive lists for additives, technological adjuvants and oenological substances and practises are missing, while the non-functional list of non-organic ingredients in EU law is adopted. Consequently, the proposed regulation does not meet the current demands of the organic food sector. A sound, market-oriented concept for successively increasing the use of organic ingredients in organic products is not discernable, although further encouragement of organic ingredients was announced in the Commission's explanatory statement.

For years, the organic sector has desired that processing rules be updated and especially that the positive lists conform to the current state of technology and the market. Instead of acting on the suggestions of the organic sector and promptly updating the additive lists, the revision will further delay an update, probably for years.

Additionally, proposals for the use of flavourings, enzymes and ion exchange resins are missing, although suggestions from the sector as well as recommendations from EGTOP are available. The extent of the revision draft's failure to present further developments is painfully obvious in that not even the glaring and long known error in the rule on the composition of organic foods (Annex II Part IV, 2.1 in the new proposal and identical in (EC) 834/2007 Article 19 (2b)) has been corrected.

In places where changes have been suggested, for example in the case of the labelling rules, new uncertainties or new burdens arise for operators. For example, claiming organic

ingredients in the ingredients list is more complicated and the difficulties with the indication of origin are only partially rectified.

Immense, additional burdens, however, arise without any safety gains, because each operator must receive prior authorization before it may use the EU logo on its label.

## **7. Removal of control measures from the EU Organic Regulation**

Articles 27 through 31 of the Regulation (EC) No. 834/2007 as well as Articles 63 through 92 of the Regulation (EC) No. 889/2008 are no longer addressed. The EU Commission suggests transferring all control measures for organic food and feed to the Regulation on food and feed controls (EC) No. 882/2004 (Articles 24 through 26 and Article 44 in the new proposal). The term “control bodies” is absent and is replaced by “delegated body” and no longer defined as an independent private third party, carrying out inspection and certification.

**Assessment:** The hitherto existing legal basis and implementation of the organic control system have proven effective in Germany. This is confirmed in an audit by the Food and Veterinary Office, published on December 11, 2013. Therefore, private control bodies under official supervision should continue to control and certify. BÖLW has already submitted extensive suggestions for the improved development of the organic control system, and thusly are in line with the assessment of the ex-post Evaluation on the application of the EU Organic Regulation 834/2007. According to the evaluation, “In many cases the rules are adequate, but there is a lack of a harmonised interpretation and enforcement in Member States.”<sup>4</sup> The guidelines for controls are to be completely integrated with and imbedded into the Regulation on official food controls. This Regulation, however, is also currently undergoing a revision process. Consequently, it is totally unclear how the result of this integration of two parallel revision processes will turn out. The resulting uncertainty could not be greater. Defined cornerstones for the further development of the control system and its implementation cannot be identified.

A comprehensive control system tailored to the specifications of the organic production method, functions in particular when control personnel are specialized in matters of organic farming and the organic food production. This will not be the case if the organic controls are transferred to the official food controls, especially since the production and control provisions form one organizational unit. If these provisions are split up into different regulatory areas, it will, in our opinion, lead to further uncertainties.

BÖLW cannot discern what substantial contribution the Regulation proposal makes towards fraud prevention and better European cooperation of the control structures. On the contrary, the inclusion with the Regulation on official controls will cause a bureaucratic nationalization of the principally well-proven organic control system.

## **8. Rules for the import of organic products are misguided**

Articles 27 through 31 and Articles 41 through 42 regulate the import regime. It has been completely restructured. Up until now, all import procedures were based on the equivalency

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<sup>4</sup>Thünen Institute of Farm Economics, 2013: Executive Summary of the Evaluation of the EU legislation on organic farming, p. 15, online under [http://ec.europa.eu/agriculture/evaluation/market-and-income-reports/2013/organic-farming/exec\\_sum\\_en.pdf](http://ec.europa.eu/agriculture/evaluation/market-and-income-reports/2013/organic-farming/exec_sum_en.pdf).

principle. Now they will be reformed in the direction of conformity. To this end, the following changes are planned:

- The list of recognized third countries on the basis of equivalency (the so-called third country list) will be eliminated and replaced by bilateral trade agreements on the basis of conformity.
- The recognition of control bodies according to equivalency will be replaced by the recognition of the control bodies on the basis of conformity.
- The system of individual authorizations (the so-called import authorizations) through Member States will be phased out.
- The recognition of control bodies according to the rule of conformity will no longer be based upon evaluation dossiers, but rather based on a mostly national accreditation and only granted by bodies, which are signatories to a multilateral recognition arrangement of these accreditations.

**Assessment:** The complete revision of the import regime is one of the conclusions that the EU Commission draws from fraud cases regarding imports from third countries. The objective is to close existing security gaps. It is true that increased reliability of organic foods imported from third countries is an important task for the further development of the EU Organic Regulation. To this end, the organic sector recommended a series of measures to address current weaknesses of the import regime even before revisions began.

However, the EU Commission's proposed revision of the import regime is misguided, as it does not suggest any targeted improvements for the existing weaknesses.

These consist on the strength of past experience mainly of lack of surveillance and insufficient, cross-border traceability in cases of fraud. These shortcomings will not be resolved through conformity assessments of third country control bodies.

The weakening of the equivalency principle in favour of the conformity principle will result in many organic products from other climatic regions not being able to be marketed within the framework of the EU Organic Regulation, because it does not allow for sufficient provisions, for example for banana cultivation. The conformity principle cannot reasonably account for differing geographical, climatic, administrative and cultural conditions in many third countries. In many cases, it will not be possible to apply and implement the EU Organic Regulation one-to-one as it is been developed for European conditions. The necessary flexibility is in danger of being lost.

The legislative proposal for the recognition of control bodies will only exacerbate the problems with the supervision of third country control bodies. Limitations in the recognition of accreditation bodies in third countries would lead to proven accreditation bodies such as IOAS being excluded from granting accreditation. Outside of Europe, there are very few accreditation bodies, which have signed the mutual recognition arrangement of accreditations and are qualified enough to be able to accredit control bodies of the organic sector. For this reason, supervision of control bodies outside of Europe will become a large problem. The security risks with organic products from third countries will thereby increase unforeseeably.

The measures recommended by the EU Commission, will have the opposite effect of what should actually be achieved. Moreover, the EU Commission is acting against recommendations of the scientific evaluation, which recommended a focussed improvement of organic controls to address these weaknesses.

## 9. Conversion rules will impede growth

In accordance with Article 8 (4), products produced during the conversion period will no longer be able to be marketed as organic goods. Further, Annex II, Part II, 1.4.3.1 determines that only 15 percent of feed may come from the operator's own farm during the conversion period.

**Assessment:** The recommendation is inconsistent. It represents a considerable break from Article 3 (24) "definition in-conversion feed" as well as Annex II Part II, 1.4.3. As there is no intended certification for in-conversion products, they must be sold as non-organic goods. This is a significant obstacle to conversion, as in-conversion farms will thus incur considerable financial damages. The currently established and well-proven Regulation has allowed that unprocessed in-conversion products of plant origin be labelled as "product under conversion to organic farming". This is a proven measure to support organic farmers during the difficult conversion period and thereby promote the expansion of organic agriculture.

In consequence, the recommended limit of 15 percent in-house feed will necessarily lead to 85 percent of feed having to be bought as organic feed from other farms, while the farm must sell its own feed as non-organic. This rule contradicts the ecocycle concept of organic agriculture, leads to additional transportation and significant financial disadvantages for in-conversion farms.

Both proposed provisions present disproportional and absurd barriers to market entry, which will complicate the conversion of farms to organic agricultural production.

## 10. Agriculture: half-baked, proposed amendments hinder organic agriculture

There are further changes, in the rules for agricultural production. Article 5 (h) stipulates that cultivated plant varieties bred using artificially induced polyploidy, may not be used. The possible application of biodynamic preparations was not included in the new draft.

There are substantial changes for poultry production, in the rules for livestock production (Annex II Part II, 2.4).

**Assessment:** Due to the prohibition on polyploid plant varieties, numerous established plant varieties will be excluded from use in organic farming; important grass species, wheat, rape and rye varieties, triticale, and fruit varieties will be affected, among others. In the recitals, there are no clues as to what the reason for the prohibition of artificially induced polyploidy varieties could be. It is also incomprehensible why this breeding technique of all techniques should be considered, when there are other breeding techniques that are considered much more critically by the sector.

For no recognizable reason, biodynamic preparations also were not included in the proposal. In so doing, the biodynamic production method, a major type of organic agriculture, has been deprived of an essential component of its farming concept. Again, this is factually incomprehensible.

In poultry production, the EU Commission aims that chicks and young poultry must be in the outdoor run in the first weeks of life. In many cases, this will be the end of the young, delicate animals and stall the setting up of emerging organic young poultry breeding. It is incomprehensible why the EU Commission does not want to set standards for how many herds with organic animals can be kept in one poultry house. It is precisely this fixed upper limit, which is needed in order to safeguard consumer confidence in organic poultry production.

## **11. Environmental management systems**

Article 7 (d) stipulates that organic operators with the exception of micro-enterprises, farmers or operators producing seaweed or aquaculture animals must set up an environmental management system in order to improve their own environmental performance.

**Assessment:** The recommendation is not worded specifically enough, as it defines neither criteria for the creation of an environmental management system, nor for micro-enterprises.

BÖLW Statement

### **III Proven methods should be further developed**

Due to the above mentioned inadequacies of the Commission's proposal, the BÖLW rejects an entirely new EU Organic Regulation. Instead, it advocates that the existing Regulation be adjusted to the current demands of practice and the current state of knowledge. In this way, the objectives that the EU Commission cites as the impetus for the amendment can be reached without limitations. The following areas in particular should be revised with the greatest urgency:

- Further development of organic controls through a more consistent implementation of already existing elements (for example, addressing the quality assurance systems of operators in accordance with Article 26 (EC) 889/2008).
- Targeted harmonization of the supervision and recognition of control bodies. Improved cross-border exchange of information while tracing fraud and regarding the certification status of organic operators.
- Revision of lists for additives and processing aids for organic food production (for example, flavourings and enzymes) and processing rules (for example, ion exchange resins).
- Removal of Annex IX of (EC) 889/2008 on non-organic ingredients of agricultural origin. The list is out of date and should be replaced by an availability database, which enables a dynamic and market-oriented increase of organic ingredients for organic products.
- Rapid adaption of Annex II of the EU Organic Regulation 889/2008 to the reformulated EU Plant Protection law in the areas of pesticides and basic substances.
- Allow for the inclusion of fermented amino acids produced from organic raw materials as well as insect protein in animal feed.
- Implementation of the provision from Article 12 of the EU Organic Regulation 834/2007, which provides a list of approved cleaning and disinfecting agents for use in organic plant production.
- Fundamental revision of the rules for poultry production.
- Amendment of rules in specialty areas such as greenhouse production.

Berlin, 4<sup>th</sup> of June 2014