

Statement

Better and simpler: Revision of the EU Organic Regulation (2018/848)

The German association of organic farmers, food processors and retailers (BÖLW), as the leading association of the German organic sector, welcomes the EU Commission's initiative to simplify and improve organic law. We welcome that an adjustment of the Basic Organic Regulation 2018/848 will be carried out in an accelerated procedure.

The following points present the most important issues from the perspective of the German organic sector, for which an opening of the Basic Organic Regulation is necessary (points 1 to 4). Points 5 and 6 mention further topics that are also important to make organic law simpler and better. In the appendix, supplementary specifications on individual proposals (points 1 to 4) are provided.

1. Labelling of equivalently imported organic products from third countries – adjustment following the Herbaria judgment

The central reason for the EU Commission's commitment to open the Organic Regulation (Regulation (EU) 2018/848) is the "Herbaria judgement". If implemented as judged by the CJEU last autumn, organic goods from countries recognized as equivalent third countries or with which a mutual organic trade agreement based on equivalent standards exists, may no longer be marketed with the EU organic label (use of the term "organic" and the EU organic logo). Equivalently imported goods, if production standards are not fully aligned with the EU Organic Regulation, would only be allowed to carry the organic label of the country of origin, which is unknown in the EU. This would not only confuse consumers but could also cause immense additional costs for the organic food chain in Europe if equivalent organic goods from third countries no longer hold the same status as compliant organic goods produced in the EU.

After thorough examination by the EU Commission's legal service, a solution to enable organic labelling under the Organic Regulation for equivalent organic imports again, is not possible without opening the Basic Regulation in Articles 30, 32, and 33 of Regulation (EU) 2018/848. Proposals for the necessary changes are indicated in the appendix.

Together with the following point, an opening of the Organic Basic Regulation is unavoidable to enable labelling of equivalent organic imports following the Herbaria judgment of the CJEU and the functionality of mutual organic trade agreements. Both issues are of utmost importance for the entire European organic market, as they have the potential for a profound disruption. They are undisputed and have broad support from Member States and the EU Commission.

2. Extension of the deadline for negotiating mutual trade agreements

A second necessary change that requires the opening of the Basic Organic Regulation 2018/848 is an extension of the deadline for concluding new organic trade agreements by about 10 years.

Currently, the recognition for third countries and import agreements mostly still rely on the predecessor Organic Regulation 834/2007 and are limited by Article 48 of Regulation 2018/848 until 31 December 2026. Consequently, all new trade agreements with the previously recognized eleven countries must be concluded by 31 December 2026 to avoid breaks in international organic trade.

This date is unfeasible because the EU would have to conclude mutual trade agreements for import and export of equivalent organic products with eleven countries within one year to prevent disruption of trade with these countries. The "Herbaria judgment" additionally calls these negotiations into question, as equivalent organic products are excluded from organic labelling under the Regulation 2018/848. To allow sufficient time for negotiations (quality over speed), the deadline for new trade agreements under Regulation 2018/848 must be extended by about 10 years.

3. Improvement of organic animal husbandry, for which opening the Basic Regulation is necessary

In particular, there are important issues in the rules for animal husbandry that require adjustments to the Organic Basic Regulation. The need for simplification arises from strict interpretations by the EU Commission, leaving little room for adaptation to regional conditions and thus hampering the development of organic farming in Germany and other EU countries. The Commission's interpretations have a legally normative effect, as national authorities adopt them. This can lead to costly operational changes for organic farms, often without achieving improvements for animal husbandry. The extra effort required is neither justifiable nor communicable to farmers.

The demanded simplifications could also be achieved through less strict interpretations. However, if the interpretations do not change, legal adjustments to the Organic Basic Regulation are necessary. The focus is on issues of great relevance and with strong impacts on organic farming and the downstream supply chain.

Flexibility of grazing obligation

An amendment of the pasture regulations in Organic Basic Regulation 2018/848 is important because the very restrictive interpretation imposed in the pilot procedure against Germany severely restricts farm-level flexibility in implementing grazing and particularly hampers the development of organic dairy farming in southern Germany. Important to note: The proposed changes maintain the principle of grazing but introduce more flexible implementation options for certain situations, which require approval from the competent authorities.

Grazing thus remains a central component of organic cattle farming, but the type and extent of grazing should better reflect animal health and farm realities. For example, young sheep, goats, or calves are particularly sensitive to parasite infestation on limited pasture areas. Bulls should be allowed to be kept separately from the age of sexual maturity (approx. 8 months). Farms also need adaptation periods to develop new pasture areas. Official restrictions in protected areas may also limit pasture expansion and use.

According to our assessment, the legal text allows enough scope for a more flexible implementation of grazing; however, as long as the EU Commission maintains its strict interpretation, amendments to Regulation 2018/848 are unavoidable.

Production unit for poultry fattening

The Commission interprets the Organic Regulation in its FAQ document¹ such that only one production unit (one poultry house) with a maximum of 1,600 m² is permitted per organic poultry fattening farm. Over the past 20 years, the organic poultry fattening market has developed so that there can be several poultry houses with a maximum of 1,600 m² each per production unit. This has no negative impact on animal health as the number of animals per poultry house is limited. More than 80% of organic poultry farms in Germany would be affected by a drastic reduction or would have to give up if production were limited to one poultry house per farm and one production unit.

The EU Organic Regulation must be amended so that several poultry houses are allowed in one production unit on an organic poultry farm. These houses must be clearly and effectively separated.

Coverings on outdoor runs

According to the interpretation by the EU Commission in the pilot procedure against Germany, the outdoor run area for cattle and pigs may be covered up to a maximum of 50%. In regions with over 1200 mm of precipitation and for sows with piglets, up to 75% coverage is permitted. Transition periods until the end of 2030 have been granted for existing buildings. These specified percentages go beyond the term "partially covered" and cannot be directly derived from the legal text. The wording "partially covered" would also allow for higher coverage percentages.

In Germany, many cattle and pig stables are affected by the EU Commission's determinations and would have to be rebuilt, often involving official permits and considerable financial costs, without improvements to animal husbandry. Piglets and calves would face new animal welfare issues with reduced coverage (piglets exposed to wetness and sun; calves up to three months old are very vulnerable due to their high surface area to body volume ratio and prone to chilling).

Due to different climatic conditions in Europe and resulting local circumstances, the formulation regarding coverings should allow greater flexibility and coverage percentages above 50%, especially for piglets and calves. This could be realized through the interpretation. Otherwise, the regulation text should be changed from "partially covered" to "predominantly covered."

Young poultry outdoor runs

The EU Commission's interpretation regarding young poultry outdoor runs, clarified in a pilot procedure against Germany, requires that each poultry house must have an outdoor run from the start. The outdoor run must also be provided in the prerearing phase from the first day on, during which young birds physiologically cannot yet use it (insufficient feathering, high heat demand).

This interpretation has profound implications for the German poultry sector and would reduce 50 to 60% of rearing capacities, although animals do not use the outdoor runs during the prerearing phase and although rearing without outdoor runs has been effective, animal-friendly, and positive for health management. The Commission's interpretation goes beyond the Organic Regulation and causes significant unnecessary burden without providing benefits for the animals. The young birds receive access to the outdoor runs if their physiology allows.

¹ https://agriculture.ec.europa.eu/system/files/2023-11/organic-rules-faqs_en.pdf, S 90-91

The EU Commission has recently indicated a willingness to offer a solution but has not yet specified one concretely. Enclosed are proposals from BÖLW for adjustments to the Organic Regulation – through changes in both the Basic Regulation and the Implementing Regulation 2020/464. These changes would only be required if the interpretation that all rearing poultry houses must have an outdoor run from day one remains.

4. Simplification of rules for “cleaning and disinfection” through opening the Basic Regulation

The recent EGTOP report² highlights that a positive list of cleaning and disinfection agents for processing and storage facilities, as provided in Article 24 of Regulation 2018/848, is technically unfeasible. EGTOP recommends instead creating a negative list, which is legally permissible and better suited to regulation in these facilities and to define criteria for excluding critical substances.

The EU Commission currently considers only a positive list of substances or products legally allowed. This approach entails evaluating and approving thousands of active substances used in cleaning and disinfection agents, imposing considerable time, cost, and administrative burdens on authorities and manufacturers. The outcome could be an overly long and fragmented list, difficult to use in companies and control authorities, possibly endangering food safety if vital agents are missing.

Experts estimate that 1,000 to 2,000 substances would need evaluation. These figures alone demonstrate the need for another approach. Given the wide variety of applications, legal regulation must be tested progressively before anchoring it legally.

If the Commission sticks to the positive list approach, Article 24 must be amended to allow a negative list with exclusion criteria for particularly hazardous substances. A discussion proposal is presented. The criteria list and suitable transition periods could be anchored in Implementing Regulation 2021/1165.

5. Further points for amendment in the Basic Organic Regulation

Adjustments to the **criteria for groups of operators** also require amendments in Art. 36 (1) of the Basic Regulation 2018/848. This concerns the criteria for the group's composition (legal personality) and turnover threshold, currently set too low and not adaptable. Many of the group of operators are still struggling with adapting to the EU organic rules. There is an urgent need to adapt these rules and to make them fit for purpose if we do not want to lose considerable amounts of organic smallfarmers and groups of operators.

Of highest relevance for organic companies is the **handling of contamination or unauthorized substances in organic products**. The current rules and interpretations lead to disproportionate and immense effort across companies throughout the supply chain and have significant potential for relief and improvement. We would highly welcome improvements in this area. However, due to divergent views in Europe, there is a high risk that deterioration could also occur in the legal procedure.

² https://agriculture.ec.europa.eu/document/download/bc0480a6-d269-468b-97df-3da3216f0d4d_en?file-name=final-report-egtop-on-cleaning-disinfectant-iii_en.pdf

We encourage the German government to explore whether improvements in implementation and harmonized procedures are achievable that strengthen process orientation in the Organic Regulation and operator responsibility. Fundamental discussions that could jeopardize the overall opening of the Basic Regulation in the fast-track procedure should be avoided. The possibilities for non-legislative improvements in this area should be exhausted.

Solution for the authorisation of substances undeniably suitable for organic farming lacking horizontal approval for a limited period: The procedure for admitting natural substances previously authorized under the Organic Regulation as active substance for plant protection in Annex I of 1107/2009 is often very difficult and long lasting. This concerns gaps due to long lasting renewal procedures but also gaps due to a different status of the substance after the introduction of the Reg. 1107/2009. This leads to the absence of important substances for specific plant protection uses in organic farming (e.g. Quassia, Bt preparates) where no alternatives are available. These are substances which were formerly authorised in organic farming but lost their authorisation in Organic Regulation (Reg. 2021/1165 Annex I) because they have no or a gap in horizontal approval. As a result, the farms are facing great challenges because they have substantial losses of yield if there is no alternative available. We propose to install a legal mechanism within Reg. 2018/848 (Art. 9.3 and Art. 22) for authorisations by Member States in cases of catastrophic circumstances if no alternatives are available, if the natural substances formerly were authorised under Organic Regulation and if the authorisation procedure in Reg. 1107/2009 is started.

Abolition of official authorisations for the purchase of plant reproductive material (PRM) and animals: Notable reduction of burden can be reached if the official authorizations for the purchase of PRM and animals are deleted. Established databases on the availability of organic seed and organic animals can automatically and reliably provide proof when certain varieties and animals are not available in organic quality. Currently, the results of the database evaluation are additionally manually approved by authorities. This non-sensical effort should be eliminated when functioning databases exist that can both verify the (non-)availability and automatically and transparently confirm applications.

The **Removal of salt** for food and feed from Annex I of Regulation 2018/848 would be a step forward, since rules for salt as a mineral substance do not fit the logic of production rules in the Organic Regulation, and a clear distinction between "organic salt" and "conventional salt" is not justifiable. As salt is a conflicting topic within Europe, we do not propose it.

6. Important topics for simplifications via secondary legislation

Additional points that need to be addressed in the context of the simplification of the Organic Regulation for which delegations are available for secondary legislation include:

- **Protein feed for piglets and young poultry:** The phasing out of the exception allowing up to 5% conventional protein components in piglet and young poultry feed by 31 December 2026 requires extension until the end of 2030 due to the lack of high-quality organic protein feedstuffs. Ongoing evaluation of the availability of organic protein feed is necessary (authorization under Article 53(4) for amending Annex II Part II No. 1.9.3.1 c) and 1.9.4.2 c)).
- **Organic ingredients naturally rich in micronutrients:** Existing ambiguities regarding the use of naturally mineral-rich organic ingredients on the one hand and the addition of refined

or synthetically defined micronutrients allowed only when legally required should be resolved (authorization under Article 16(2) b) for amending Annex II Part IV No. 2.2.2).

- **Correction possibility for clerical errors in control certificates:** Since clerical errors in certificates of inspection can lead to the return of valuable and integer organic goods over long distances or even their destruction, a legal solution for correcting such clerical errors must be established (amendment in Regulation 2021/2306 Articles 5 and 6).

Appendix:

Tabular overview of necessary amendments in Regulation (EU) 2018/848

For easier handling, the tabular overview of amendment proposals is provided in English. Adjustments in the legal text are printed in ***bold and italics***, deletions .

Topic	Reference	Proposal for Amendment in Reg. 2018/848	Delegation for secondary act available?	Proposal for Amendment in secondary legislation
Highest Priority				
Labelling of imported products under equivalence	Art. 30, 32 and 33 Reg. 2018/848	Proposals for discussion: Art. 30 1. For the purposes of this Regulation, a product shall be regarded as bearing terms referring to organic production where, in the labelling, advertising material or commercial documents, such a product, its ingredients or feed materials used for its production are described in terms suggesting to the purchaser that the product, ingredients or feed materials have been produced in accordance with this Regulation. In particular, the terms listed in Annex IV and their derivatives and diminutives, such as 'bio' and 'eco', whether alone or in combination, may be used throughout the Union and in any language listed in that Annex for the labelling and advertising of products referred to in Article 2(1) which comply with this Regulation <i>or with equivalent production and control rules according to Art. 47 or 48.</i> Art. 32? Art. 33:	No	-

		3. The use of the organic production logo of the European Union shall be optional for products imported from third countries according to Art. 45 (1) b) (i) to (iii) of this Regulation . Where that logo appears in the labelling of such products, the indication referred to in Article 32(2) shall also appear in the labelling.		
Postponement of deadline for trade agreements	Art. 48 (1) Reg. 2018/848	Equivalence under Regulation (EC) No 834/2007 1. A recognised third country referred to in point (b)(iii) of Article 45(1) is a third country which has been recognised for the purposes of equivalence under Article 33(2) of Regulation (EC) No 834/2007, including those recognised under the transitional measure provided for in Article 58 of this Regulation. That recognition shall expire on 31 December 2026 2036 .	No	-
High Priority				
Flexibility for access to pasture	Annex II part II point 1.9.1.1 new g) Reg. 2018/848	1.9.1.1. Nutrition With regard to nutrition, the following rules shall apply: (a) ... (b) animals shall have access to pasturage for grazing whenever conditions allow; (c) notwithstanding point (b), male bovine animals over eight months one year old shall have access to pasturage or an open air area; (d) where animals have access to pasturage during the grazing period and where the winter housing system allows the animals to move freely, the obligation to provide open air areas during the winter months may be waived; (e) rearing systems shall be based on maximum use of grazing pasturage, by reference to the availability of pastures in the different periods of the year; (f) ... (g) without prejudice to point (b), the competent authorities may authorise exemptions from access to pasture for certain groups of animals if access to pasture cannot be provided for these groups of animals - because animal health reasons prevent/preclude grazing, or	No	-

		<ul style="list-style-type: none"> - for an operation that needs time to adapt in order to expand its grazing areas, or - due to official restrictions. Animals without access to pasture must be given permanent access to open-air areas and fresh roughage during the growing season.		
Production Unit for fattening poultry	Annex II part II point 1.9.4.4 m) Reg. 2018/848	1.9.4.4 m) the total usable surface area for fattening poultry in a single poultry house of any production unit shall not exceed 1 600 m ²	No	-
Coverings of outdoor runs	Annex II part II point 1.6.5 Reg. 2018/848	Open air areas may be predominantly partially covered. (...)	No	-
Outdoor run for young poultry	Annex II part II point 1.9.4.4 e) Reg. 2018/848	In Annex II. Part II. 1.9.4.4.(e) Reg. 2018/848: e) continuous daytime open air access shall be provided from as early an age as practically possible and whenever young poultry are physiologically ready to use it and physical conditions allow, except where temporary restrictions have been imposed on the basis of Union legislation;	Yes Art. 14.3 Reg. 2018/848 for amending Reg. 2020/464	Art. 15 of Reg. 2020/464: 1. Poultry houses shall be constructed in a manner allowing all birds easy access to open air areas which must be provided when young poultry is physiologically ready to use it. Amendment to Annex I part IV of Reg. 2020/464: „use of outdoor areas only when the birds are fully feathered“
Cleaning and disinfection in processing and storing	Art. 24 Reg. 2018/848	Proposal for discussion: Article 24 Authorisation of products and substances for use in organic production 1. The Commission may authorise certain products and substances for use in organic production, and shall include any such authorised products and substances or criteria in restrictive lists for the following purposes: (a) ... (f) ... (g) as criteria for excluding certain substances for cleaning and disinfection in processing and storage facilities.	No	-
Group of operators	Art. 36 (1)	Proposal for turnover limit: (b) only be composed of members: (i) of which the individual certification cost represents more	No	

		<p>than 2 % of each member's turnover or standard output of organic production and whose annual turnover of organic production is not more than EUR 25 000 or whose standard output of organic production is not more than EUR 15 000 per year; or</p> <p>proposal for composition of groups: supplement in Art. 36 (1) b) new point iii):</p> <p>iii. as an exception to the provisions of Art 36.1 (b), farmers that exceed the limits of Art 36.1 (b) but are certified as individual farm operators, may remain legal members in a group of operators, as long as their products are not collected in the joint marketing system, but bought as organic suppliers with due traceability documentation</p> <p>Proposal for legal personality: (d) have legal personality or, where this is not possible, be a clearly defined group of farmers applying the organic production method as part of a bigger group of farmers that has a legal personality;</p>		
Solution for the authorisation of substances undeniably suitable for organic farming	<p>Art. 9 (3) of Reg. 2018/848 Art. 22 of Reg. 2018/848</p> <p>Amendment in Reg. 2020/2146</p>	<p>Art. 9 (3) For the purposes and uses referred to in Articles 24 and 25 and in Annex II, only products and substances that have been authorised pursuant to those provisions may be used in organic production, provided that their use in non-organic production has also been authorised in accordance with the relevant provisions of Union law and or, where applicable, in accordance with national provisions based on Union law.</p> <p>Adaptations in Art. 22 if necessary</p>	No yes	<p>Art. 3 in Reg. 2020/2146 Proposal for discussion: new point 10:</p> <p>10. By way of derogation from the implementing act adopted pursuant to Article 24(9) of Regulation (EU) 2018/848 and establishing in particular the conditions for use of products and substances authorised in organic production, natural substances in plant protection products previously authorised for organic production but lacking horizontal approval</p>

				<i>for a limited period of time, may be used when the sanitary status of the products requires it and no alternative products are available. The exceptional rules should only apply for specific substances if a provable process of authorisation in Union law has started and a national exceptional authorisation is granted.</i>
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