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## **BEUC's draft position paper on organic production and labelling of organic products – For action**

The Swedish Consumers' Association have been invited to comment on the BEUC draft Position Paper on Organic production and Labelling of Organic Products.

### **1. Background**

The regulation on organic production and labelling of organic products is the result of a Swedish initiative taken during the 2001 presidency to develop an action-plan. The consultations that followed revealed the key elements of such a plan, including the need of establishing clear guidelines for organic production, solving the problem with a multitude of different labels and improving the import regulations.

The result of this consultation is thus the present regulation. The purpose of the regulation is to clarify what is meant by ecological, creating a common regulation around the concept, and thereby strengthen its position in the Common Market. This motive to the creation of the regulation, strengthening the position of ecological products on the European market as a whole, is something that The Swedish Consumers' Association supports and welcomes.

However, while we are supportive of the strengthening of ecological products on the European market as such, there are at the same time questions to be raised as far as the position of the Swedish consumers is concerned. In fact, the Swedish market is already experiencing a functioning label for ecological products, the "KRAV-label". Moreover, the requirements posed by this label are in many aspects stricter than the proposed European regime.

Even though a harmonized European market would in the long-term perspective carry great benefits for all European consumers, there is at the same time a clear risk of a detriment in the short-term perspective. For Swedish consumers, where a functioning label is already in use, this risk is particularly evident. A scenario where the Swedish label is being marginalised by a European regime, must not lead to a worsened situation for the Swedish consumers.

A part from these basic difficulties, there are other key elements of the regulation that we wish to address. These are commented on separately below.

### **2. Article 1, Subject matter and scope**

It is our view that the decision to leave restaurants and similar outside the scope of the regulation is particularly unhappy. There is no reason for why consumers in such situations would have less a need of receiving information on the ecological history of food. Indeed, active choices are something consumers do not only make in stores, but also at restaurants etc.

### **3. Article 2, Definitions**

In general, the definitions included in article 2 are, subject to minor exceptions (see below, part 5.), satisfactory. However, there are at the same time a number of concepts that are not explained in the directive at all and should therefore be included in article 2.

This is particularly so in relation to the concept of “natural substances” as this is used in article 4. Without clearly defining the meaning of this concept, article 4 states that “the use of living organisms and mechanical production should be preferred” and that chemically synthesised substances may only be used “where natural substances are not commercially available”. Given the great importance of this article, the fact that neither the article itself nor the regulation in general clearly defines its scope, is clearly unsatisfactory.

### **4. Article 16, Less restrictive production rules**

In article 16 a number of situations are listed where less restrictive production rules than those provided for by chapters 1, 2 and 3 shall be allowed. It is our view that this suggestion is positive in that it takes into consideration geographical differences that appears to have previously been overlooked. However, this presupposes that the exceptions are not utilised in a way that misleads the consumers. Every product can scarcely without great difficulties be ecologically produced, but this fact cannot at all times be taken into consideration. In particular, exceptions to the strict requirements can only be accepted as long as their application does not lead to products being labelled as ecological, although not fulfilling the necessary criterion.

### **5. Articles 17 – 20, Labelling**

It is the view of The Swedish Consumers’ Association that the articles found under title IV, Labelling, suffers from ambiguities in several respects.

Firstly, the connection between articles 17 and 18 is not easily understood. Article 17 is especially difficult to understand with its construction of what both is to be allowed, and what is not. In our view it would have been sufficient to prescribe that the term “ecological, or its derivatives and diminutives”, shall be reserved for the products fulfilling the requirements of the regulation.

Secondly, we would also like to point at the problems derived from the prohibition to use the term ‘ecological’ in labelling or marketing. Labelling is defined in article 2, but the issue appears not to have been fully clarified. For example, would it be prohibited to provide information regarding the ecological production methods that have been utilised in the production of milk that is otherwise non-ecological, by printing information on the back of the carton? In this respect, the definition provided by article 2 is clearly lacking and needs to be fully clarified.

Thirdly, it is in this respect unfortunate that the regulation does not afford room for so-called ‘statements of ingredients’. The fact that it is under the present regulation prohibited to state that, e.g., a course includes ecological vegetables, is a clear deficiency.

Finally, we would like to point at the difficulties that in our view follow with the prohibition against label and advertising claims. To begin with, the article must under no circumstances mean that a company or organisation is not allowed to use its superiority in ecological terms in its marketing activities. Further, the motives to and the advantages of the prohibition seem to be somewhat unclear. The reasoning that is included in para. 27 to 31 of the preamble is both unclear and altogether difficult to understand.

We would also like to express our concerns with the prohibition in general. As the text stands, it means a general prohibition against expressing an opinion of what is ecological, or similar. Misleading marketing activities should of course be made subject to the applicable marketing legislation. However, there is a fundamental difference between that practice, and a general prohibition against expressing an opinion altogether. Further, fundamental legal principles supports the fact that this freedom of expression must be kept untouched, regardless of whether the statement in question might be true or false.

## **6. Title VI, Trade with third countries**

This part of the regulation means a clear improvement as compared with the previous regime. The rules appear to have been altogether improved, simplified and strengthened. The Swedish Consumers' therefore supports the proposed regulation in this part.

## **7. Article 24, Certification**

Even though the regulation contains a relatively detailed explanation of the different authorities and the supervisory functions these are set to perform, it is remarkable that nothing is mentioned regarding the costs that this part of the new regime is destined to generate. We believe it to be adequate to state that we presuppose that this cost is kept at a very low level. The situation where the situation of small-scale producers in the agricultural sector is worsened by the lack of possibilities to compete in the ecological products' market, leaving the consumers with an increase in price as the ultimate result, must be avoided.

## **8. Article 31, Management Committee on organic production**

This part of the regulation is by us seen as very unclear. The Management Committee is set to handle a large variety questions and it is, therefore, particularly unhappy that its composition, organisation and so on is not presented in any greater detail.

## **9. Budgetary implications**

Para. 36 of the preamble simply states that the proposal does not entail any direct consequences for the Community budget. We would in this respect like to stress the relatively large information investments that must be carried out to make sure that the proposed regulation has the desired impact.