

ORGANIC HETEROGENEOUS MATERIAL



*A new marketing regime
for diversified seed populations*

ENGLISH

The new European Regulation n°2018/848 on organic production and labelling of organic products, has opened the possibility, as from January 2022 and for all operators, to place seeds of « organic heterogeneous material » - **OHM** - on the market, for use in organic farming, home gardening as well as conventional agriculture.

This possibility should enable organic farming to achieve its fundamental objectives; in particular, to « contribute to a high level of biodiversity ».

It should also enable to meet one of the essential requirements of organic agriculture: only organic plant reproductive material (seeds, tubers, grafts, etc.) may be used for the production of organic plants and plant products.

The availability on the market of new categories of organic seeds should help putting an end to the many derogations to this basic rule.



In order to see an increasing number of OHM-labelled reproductive material reach the market, the involvement of all actors in the organic sector is required : breeders, seed producers, farmers, processors, retailers, consumers, etc.

This leaflet has been designed to help all operators concerned by the new legislation to grasp it rapidly and realise it creates a marketing regime quite easy to put into practice!

WHAT IS ORGANIC HETEROGENEOUS MATERIAL?

Art. 3 (18) of the new Regulation defines OHM as:

« a plant grouping within a single botanical taxon of the lowest known rank which:

(a) presents common phenotypic characteristics;

(b) is characterised by a high level of genetic and phenotypic diversity between individual reproductive units, so that the plant grouping is represented by the material as a whole, and not by a small number of units;

(c) is not a variety within the meaning of Article 5(2) of Council Regulation (EC) N° 2100/94;

(d) is not a mixture of varieties; and

(e) has been produced in accordance with Regulation n°2018/848. »

OHM thus refers to « varieties », in the common sense of the term, whose **individuals are not all absolutely identical or homogeneous**, but instead show a great diversity of botanical traits, while retaining common characteristics that make it possible to identify them as belonging to a specific « variety ».



OHM is not to be considered as a « variety » within the meaning of the legislation on Plant Breeder's Right, because it is not uniform.

It thus **can't be protected by an intellectual property right** and consequently belongs to the public domain.

In order to be placed on the market under this designation, OHM **must have been produced under organic farming conditions** for at least one generation for annual species and two generations for biennial and other perennial species.



THE NEW MARKETING REGIME FOR OHM

The new marketing regime for OHM is provided for in **Regulation n°2018/848** on organic production and in a **Delegated Regulation n°2021/1189** adopted by the European Commission on May 7th 2021. **Both texts enter into force on January 1st, 2022.**

Concerning the scope of this new regime; the species concerned by this marketing regime are all those covered by the « horizontal legislation » on the marketing of seeds, made of 11 sectoral directives: fodder plants, cereals, vegetables, ornamental plants, oil and fibre plants, vegetative propagating material of vines, etc.

By way of derogation, transfer of limited quantities of plant reproductive material of OHM intended for **research on, and development of OHM**, is exempted from any formality and may occur freely.



Concerning the nature of this new regime; plant reproductive material of OHM may be marketed following the notification of a descriptive dossier to the competent authority.

That notification shall be sent by registered letter, or by any other means of communication accepted by the official bodies.

Three months afterwards, provided that no additional information was requested or that no formal refusal was communicated to the supplier, the competent authority is deemed to have acknowledged the notification and its content.

After having expressly or implicitly acknowledged the notification, **the responsible official body may proceed to the listing of the notified OHM.** That listing shall be free of charge for the supplier.

HOW SHOULD OHM BE DESCRIBED?

The Delegated Regulation details the **elements that must be included in the notification file** to describe the OHM to the competent authority, before it is placed on the market.

- 1 The **phenotypic, or botanical, characteristics of the material**, meaning a description of the **differences and similarities observed between individuals**. This description may include the **agronomic characteristics** of the material (yield, resistance to pests, taste, etc.) as well as the **results of any available tests** relating to these characteristics.



Similarities
Leaf: Attitude: draping
Leaf: Type of blade: pinnate
Leaf: Glossiness: weak
Fruit: Shape in longitudinal section: circular
Fruit: Intensity of green colour on shoulder: medium
Fruit: Shape at blossom end: intended to flat
.....
Differences
Leaf: Length: short and long
Leaf: Intensity of green colour: light and medium
Fruit: Size: medium and large
Fruit: Green stripes: present and absent
.....

- 2 The **type of technique** used for the **selection or production** of this material. Note that a **breeding** activity, in the contemporary sense of the term, is not necessarily required here. More information on page 6.

- 3 The **parental material** used to breed or produce the material.

- 4 The **selection and management** practices of the material on the farm site.

- 5 The **country** of breeding or production, including information on the **year of production** and a description of the **soil and climate conditions**.



WHAT KIND OF TECHNIQUES MAY BE USED?

The Delegated Regulation lists **three kinds of techniques** that can be used for the breeding or production of OHM.

- 1 Techniques leading to the creation of « composite cross populations », which result from the **crossing of different types of parental material**, using crossing protocols to produce diverse OHM by bulking of the progeny, repeatedly re-sowing and exposing the stock to natural and / or human selection.
- 2 « **On-farm management** » practices, including farmer selection and maintenance or conservation of the material.



- 3 Any other technique of breeding or production of OHM.

Options thus remain very open and will allow the notification of **both « traditional » or « local » material**, conserved by natural selection or by farmer selection, **and new material**, resulting from relatively informal breeding activities or, on the contrary, following precise agronomic protocols.

WHAT KIND OF QUALITY STANDARDS APPLY?

The rules on minimum quality requirements, particularly as regards health, specific or analytical purity and germination, are laid down by reference to the 11 applicable sectoral directives.

This means that **OHM will have to comply with the same quality standards as all other kinds of seeds on the market.**

Note, however, that **no official certification will have to be undergone** for this purpose.

Operators will thus take the responsibility to comply with these rules, which will be controlled, on a risk-basis, after the products reach the market, in distribution channels.

However, as regards germination rate, the Delegated Regulation provides for the **possibility of placing on the market seed of OHM not complying with the minimum rates** set by the legal standards, provided that the **supplier indicates the actual germination rate** on the label or directly on the package.



RULES ON LABELLING AND PACKAGING

Regarding packaging a distinction is made between small packages, as defined in Annex II of the Delegated Regulation, and other packages.

- ☞ Small packages (up to 30kg of seeds, depending on the species) may be packed **without the need for a special closing device**.
- ☞ Larger packages **must be closed** in such a way that they cannot be « *opened without leaving evidence of tampering on the package or container.* »



- ☞ A **yellow label with a green diagonal cross** must be affixed to packages or containers of OHM, providing the information listed in Annex I of the Delegated Regulation (name of the OHM, name and address of the operator, country of production, etc.).
- ☞ This **information may also be printed directly on the package** or container, in which case the green cross on a yellow background is not required.
- ☞ For small transparent packages, the label **may be placed inside the package**, provided that it is clearly legible.

By way of derogation from these rules, seed of OHM **may be sold directly to final users in unmarked and unsealed packages** in the maximum quantities provided for in Annex II of Regulation n°2021/1189, provided that the purchaser can obtain, on request, in writing and at the time of delivery, information concerning the species, the name of the material and the reference number of the lot.



HOW WILL OHM BE CONTROLLED?

Organic production is **subject to the official controls** provided for in a specific European Regulation on controls (n°2017/625), voted in March 2017.

Within this framework, OHM will be subject to **official risk-based controls** to ensure compliance with the rules described in this document.



This is therefore a system of **non-systematic post-marketing controls**, similar to those applying to so-called « standard » vegetable seeds under the horizontal legislation on the marketing of seeds, but distinct from those applicable to so-called « certified » seeds, which are subject to pre-marketing controls, under the horizontal legislation.

HOW WILL OHM BE MAINTAINED?

Maintenance requirements are mainly relevant **for varieties protected by plant breeder's right**.

Indeed, plant breeder's right lapses when the holder of the right has not taken any maintenance measures and is therefore no longer able to provide the competent authority with plant propagating material showing the very characteristics described at the time when the protection was granted.

In the case of **OHM**, which **cannot be protected** by plant breeder's right and whose genetic diversity and dynamic nature will necessarily lead to changes in its characteristics over time, **maintenance is only required if it is « possible » and only for the period during which the material is placed on the market**.



OHM ON NATIONAL DATABASES FOR ORGANIC SEEDS

The Regulation n°2018/848 on organic production requires Member States to **create a regularly updated database** to record, in particular, the **plant reproductive material available on their territory** in organic quality or in conversion quality.

This database should be designed to enable operators themselves, when they are able to supply such material in sufficient quantities and within a reasonable time, to **make public the following information**, together with their names and contact details, **on a voluntary and free of charge basis**:

- ☞ The material made available, including any OHM;
- ☞ The quantity by weight of such material;
- ☞ The period of the year when it is available.

SPECIE	VARIETY	TYPE	AVAILABILITY
CARROT	KIVAN	OHM	Apr. - Jun.
RADISH	LVIZH	OHM	Mar. - Sep.
TOMATO	ZUBER	OHM	Feb. - Apr.
BEAN	VMISUR	OHM	May - Jun.
EGGPLANT	LVHAR	OHM	Feb - Mar.
COURGETTE	LVHAR	OHM	Mar. - Jun.

Operators will have to ensure that the information they publish in this framework is **regularly updated as well as removed** from the lists once the material is no longer available.

Member States may continue to use the relevant information systems already in place, provided that they offer the possibilities described above.

This database will in particular allow organic farmers to **know what is available** on the market in organic quality, but also to **diversify their production**, if they wish to do so, by acquiring OHM.

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