

Study on agricultural interbranch organisations (IBOs) in the EU

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National Legislation and Actions concerning IBOs

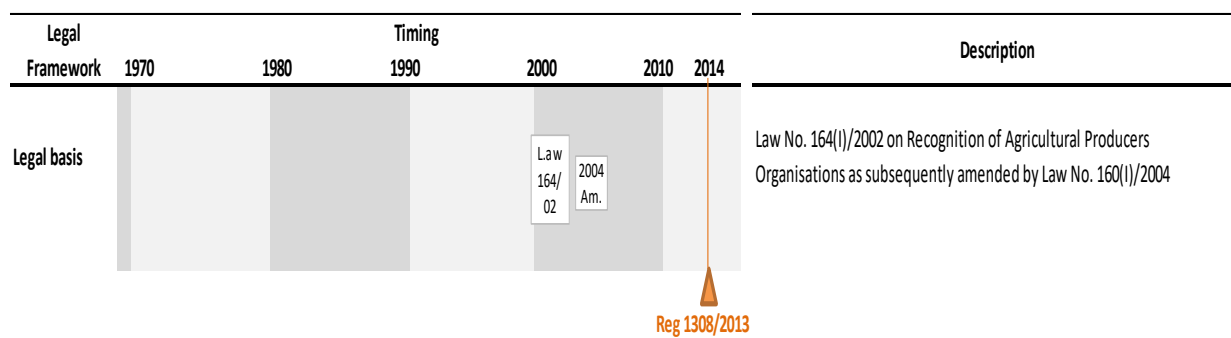
CYPRUS

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[Section 1: National legislation pursuant to Articles 157-IBOs, 158-Recognition of IBOs, 159 and 162-Recognition of IBOs in the olive oil, table olives and tobacco sectors and 163-Recognition of IBOs in the milk and milk products sector of the CMO Regulation](#)

Figure 1: Legal basis for the recognition of IBOs in Cyprus



Source: Compiled by Arcadia International E.E.I.G

Summary of national legislation on IBOs

In Cyprus the establishment of national rules governing IBOs dates back to 2002–2004. The adoption of this national framework was triggered by the need to align with the *acquis communautaire*-in particular with Regulation (EC) No 2200/96 - in the perspective of the accession of Cyprus to the EU.

In 2002 the Cypriot House of Representatives enacted **Law No. 164(I)/2002 on Recognition of Agricultural Producers Organisations**, as subsequently amended by **Law No. 160(I)/2004** (hereinafter referred to as the "**Law**"). The Law is applicable as 9 August 2008 whilst the amendment is of application as of 30 April 2004. Among other provisions, the Law designates the competent authority that may grant recognition to IBOs and establishes the general legal framework for the recognition of such entities.

Section 12 of the Law provides for the relevant recognition process as well as for the documentation that must accompany the request from the applicant organisation.

A draft legislative text has been prepared with a view to repealing the Law. The former provides, among others, for a revised procedure for the recognition of IBOs, including new provisions and requirements that applicant organisations must meet. The draft legislative text is currently with the Office of the Attorney General of the Republic where it is undergoing a legal technical review. It is expected that the final draft text will be brought before the House of Representatives before the end of 2016 for enactment and entry into force.

IBOs: definition, objectives and legal status

There is currently no definition of IBO in the Law. However, the aforementioned draft legislative text defines an IBO as "*a legal person that has been the subject of recognition pursuant to article 158 of Regulation (EU) No 1308/2013/EU*". In terms of legal status, from the documents which must be submitted for the purpose of obtaining IBO recognition it may be inferred that applicant organisation might be either registered companies or cooperative societies.

National law does not provide for any specific aims that IBOs may pursue besides the objectives set out in Article 157 of Regulation (EU) No 1308/2013.

IBOs' recognition and monitoring

Concerning the recognition procedure, Section 3 of the Law stipulates that the **Director of the Department of Agriculture of the Ministry of Agriculture, Rural Development and Environment** (formerly, the Ministry of Agriculture, Natural Resources and Environment) is the competent authority responsible for granting recognition to IBOs (and to producers' groups and organisations). According to Section 12 of the Law, organisations applying for recognition as IBOs must submit to the competent authority an application accompanied by the following documents:

- Copy of the memorandum, articles of association and the internal regulation of operation (in case it is a company) or the articles of association and the internal regulation of operation (in case it is a cooperative);
- Extracts of minutes that show that the members of the applicant organisation agreed for the IBO to be established to operate as a legal person;
- Recognition plan for a term of up to five years, in those cases provided for in the relevant Community Regulations, or a business plan and supporting evidence that an operational fund has been set up, in those cases provided for in the relevant Community Regulations, or a business plan for a term of five years for products not covered by the relevant Community Regulations;
- Certificate that confirms that the applicant is not under liquidation; and
- Any other document required by the relevant EU Regulations, Regulations issued pursuant to the Law or any document deemed necessary by the competent authority.

Following submission of the relevant documents above, the competent authority examines the application, taking into due account the opinion provided by a National Advisory Committee comprising specialists in the relevant agricultural sector. The decision is issued within three months from the date of receipt of the application. However, the competent authority may request supplementary information by the applicant or by public authorities (e.g. Registrar of Companies or Cooperative Societies). The competent authority is not bound by the opinion of the National Advisory Committee, although, when deviating from it, its decision must be duly motivated and communicated in writing to the applicant.

Any decision of the competent authority to recognise an IBO must be recorded, with the relevant registration details, in a **register**, besides being subject to publication in the

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Official Gazette within 45 days from its issue. Further, within seven days of the said registration, the competent authority issues and sends to the applicant a registration certificate.

A decision by the competent authority not to recognise an IBO does not prejudice the right of the applicant to file a new application at a later stage, based on new conditions that *prima facie* fulfil the applicable legal requirements for recognition.

Any decision of the competent authority is notified to the applicant by a double registered letter. Pursuant to Section 15 of the Law, when circumstances so require, the competent authority can impose sanctions or to withdraw the recognition of an IBO. A relevant decision of the competent Authority is subject to a **hierarchical recourse** to the Minister of Agriculture, Rural Development and Environment. The Minister may either uphold or annul the decision of the competent authority.

As already referred above, the adoption of a draft legislative text that provides, inter alia, for a new procedure for recognition of IBOs as well as for more detailed recognition criteria is currently pending at national level. At this stage, it is difficult to predict the final content of the draft text under discussion. Nevertheless, it is worth noting that the current version of the draft text envisages that any organisation seeking recognition as an IBO should, amongst others, provides evidence that its members account, at least, for 20% of the economic activities of the production and of the other stages of the relevant product(s) chain they represent at national level.

IBOs' agreements: approval and extension of rules

There is no such legal framework and national legislation does not provide for the extension of rules.

Rules on financing

There are no specific national rules on financing of IBOs.

Representativeness

The Law does not provide any specific rules with regard to representativeness.

[Section 2: Other national legislation relevant to activities and operation of IBOs pursuant to Articles 157 –IBOs, 158 – Recognition of IBOs, 159 \(b\) and 162 – Recognition of IBOs in the olive oil, table olives and tobacco sectors and 163- Recognition of IBOs in the milk and milk products sector of the CMO Regulation](#)

No economic incentives are provided by national law or generally under governmental policy vis-a-vis IBOs. The main reason for that is that no representatives of the economic activities linked to the production and the supply chain in a specific sector have shown interest so far in applying for recognition as an IBO under the Common Market Organisation. The same applies to fiscal incentives, public support and derogations from national competition law.

Once established, IBOs may possibly seek to obtain financial support in the context of the **Cyprus Rural Development Programme 2014-2020** to encourage, for instance, the adoption of cooperation measures.

Section 3: History and list of IBOs pursuant to Articles 157 –IBOs, 158 – Recognition of IBOs, 159 (b) and 162 – Recognition of IBOs in the olive oil, table olives and tobacco sectors and 163- Recognition of IBOs in the milk and milk products sector of the CMO Regulation

Not applicable

Section 4: Use of the available legal framework for IBOs and other forms of cooperation between producers and other stages of the food supply chain established in the context of CMO Regulation

Cyprus has not made use of the existing national framework for recognising IBOs as no organisation has shown interest so far. The reason of the lack of recognised IBOs in the country primarily lies with that producers tend to prefer simpler types of cooperation because of different factors (e.g. age, mentality). As a result, there are neither IBOs nor Associations of Producers Organisations (APOs) officially recognised by the competent authorities at national level.

However, it should be noted that, overall, the competent authorities consider useful to recognise IBOs as their contribution can only be positive for the production and distribution of products in general and the national economy. For this reason, national provisions exist while the Department of Agriculture of Cyprus has been trying to promote such initiatives by raising awareness with the representatives of the economic activities linked to the production and the supply chain of the different agricultural sectors. Also, in the draft legislative text currently under discussion, the proposed rules governing recognition of IBOs have been made simpler, more understandable and detailed. Unfortunately, during the public consultation that preceded the publication of the abovementioned draft legislative text, there was no reaction from stakeholders.

Competent authorities expect that, following the adoption of Regulation (EU) No 1308/2013, of the new national legislation in the pipeline and of the national Rural Development Programme 2014-2020, the representatives of the sector may show interest in the setting up of IBOs.

As regards other forms of cooperation that are foreseen by Regulation (EU) No 1308/2013 in relation to specific products or sectors (e.g. sugar, olive oil, cattle etc.), none of them has been implemented in Cyprus. Indeed, for certain products (e.g. olive oil, live cattle, and arable crops) there are no recognised producer organisations that could negotiate contracts on behalf of their members in accordance with the relevant provisions of the Regulation. With regard to the case of cheese and ham covered by EU quality scheme, there is none of such geographical indications currently recognised in the country.

Section 5: National practice concerning Article 210 CMO Regulation and decisions of competition authorities/national courts on the compatibility of IBOs activities/practices with national competition law

Not applicable

Section 6: Literature

- National Legislation

Recognition of Agricultural Producers Organisations Law 164(I)/2002, as amended in 2004 by Law 160(I)/2004.

http://www.cylaw.org/nomoi/enop/non-ind/2002_1_164/full.html

- National competent authorities

Director of the Department of Agriculture of the Ministry of Agriculture, Rural Development and Environment

http://www.moa.gov.cy/moa/da/da.nsf/page04_en/page04_en?OpenDocument