

Study on agricultural interbranch organisations (IBOs) in the EU

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National Legislation and Actions concerning IBOs

LATVIA

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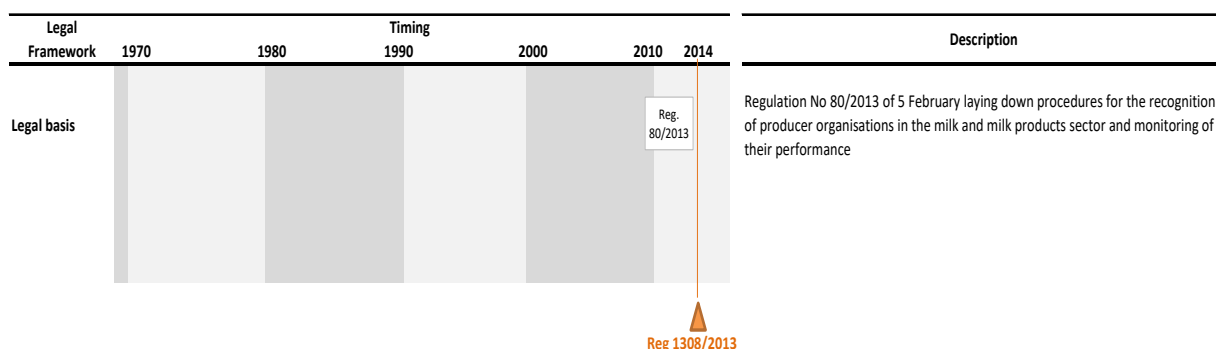
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National Legislation and Actions concerning IBOs - LATVIA

[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 Latvia



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

Summary of national legislation on IBOs

Latvia is currently the only country amongst the three Baltics to have national legislation in place with regard to IBOs. Latvia's current legislative framework in this area provides for the establishment of IBOs in **only one sector**, i.e. **milk and milk products**.

Regulation No 80/2013 of 5 February 2013 on procedures for the recognition of producer organisations in the milk and milk products sector and monitoring of their performance lays down as well provisions for the formal recognition of organisation as IBOs and for the monitoring of their performance. It is applicable as of 24 February 2013.

Based on Section 9, Paragraph 3 of the national Law on Agriculture and Rural Development, Regulation No 80/2013 was adopted before the entry into force of Regulation (EU) No 1308/2013. For this reason, it appears to have been overall modelled taking into account requirements set by prior EU legislation governing common market organisation and namely by Regulation (EC) No 1234/2007.

IBOs: Definition, objectives and legal status

Section I (General Provisions) of Regulation No 80/2013 defines the scope of this national legislation. In so doing, it also provides some key definitions for the correct application of its provisions. In particular, **Section I, Paragraph 2** of the Regulation contains a legal definition of "**producer organisation in the milk and milk products sector**" which encompasses, amongst others, a "**milk inter-branch organisation pursuant to Article 126b, paragraph 1 of Regulation (EC) 1234/2007**".

The latter EU provision concerned the recognition of IBOs in the milk and milk products sector foreseeing that: "*Member States may recognise [IBOs] in the milk and milk products sector provided that such organisations:*

- (a) Meet the requirements laid down in Article 123 (4);*
- (b) Carry out their activities in one or more regions in the territory concerned;*
- (c) Account for a significant share of the economic activities referred to in Article 123(4)(a); and*
- (d) Do not themselves engage in the production of processing of or the trade in products in the milk and milk products sector".*

In terms of objectives and activities that IBOs may pursue, national law refers back to Article 123 par. 4 c) of Regulation (EC) No 1234/2007. At national level there are no specific rules with regard to the legal status acquired by IBOs following recognition.

IBOs recognition and monitoring

The **Rural Support Service (RSS)**, a public entity operating under the supervision of the Latvian Ministry of Agriculture, is the authority invested with the power of granting formal recognition to IBOs in the milk and milk products sector (Section I, Paragraph 3). **Section III** of Regulation No 80/2013 lays down provisions concerning procedures for the recognition of IBOs and the monitoring of their performance.

In order to apply for recognition, any interested organisation must be duly **registered** in accordance with national law governing the establishment and the functioning of associations and foundations. It must also provide evidence, through its own statutes, that it **complies with the requirements laid down in Article 126b, paragraph 1** Regulation (EC) No 1234/2007 (Paragraph 26).

With a view to submitting an **application for recognition** to the national competent authority, interested organisations must use the **standard format** that is provided in Annex 3 to the Regulation and join a copy of the agreement of its members to form an IBO (Paragraph 28). Information to be provided via such a format includes:

- The details of the applicant organisation (e.g. name, address, email, registration number of the association);
- Evidence of the conformity with applicable legal requirements (e.g. membership covering different stages of the milk and milk products chain, significant share of the economic activities);
- The full list of the organisation's members; and
- The objectives to be pursued and/or the activities to be conducted by the IBO once is established (e.g. improvement of production and market's knowledge and transparency, promotion of milk and milk products consumption, drawing up of standard contracts etc.).

Applicant organisations must also make available to RSS a copy of their statutes, proof of their registration in the national register of associations and foundations and copy of their latest annual report (or the annual report of their members in case the organisation has less than one year) (Paragraph 30).

Following an application, RSS may decide either to accept or reject it. A **rejection decision** may be justified whenever the RSS deems that the applicant organisation does not fulfil the legal requirements that Regulation No 80/2013 sets for the purpose of recognition or where the information provided in the application is incorrect (Paragraph 29).

RSS is responsible for **monitoring compliance** of recognised IBOs in the milk and milk products sector with the requirements that govern their recognition. For this purpose, this authority must carry out checks **once a year** (Paragraph 32).

In case any of those checks reveal that an IBO does not comply with the applicable legal requirements for its recognition, the IBO in question must rectify the non-compliance identified within 30 days from when it has been notified. If the IBO does not rectify the non-compliance within the set deadline, RSS must withdraw its recognition (Paragraph 33). Under these circumstances - and, more generally, in all cases in which national legislation foresees the withdrawal of the recognition as an IBO - the concerned organisation may lodge a new request for recognition after three months from the date of the decision to revoke its recognition status (Paragraph 40).

Any IBO recognised pursuant to Regulation No 80/2013 has the obligation to inform RSS of any changes that may affect its compliance with the legal requirements that govern recognition. The IBO must notify such changes within five working days from their occurrence (Paragraph 34).

As regard competition rules Regulation No 80/2013 requires RSS to inform the national **Competition Council** of any decision granting or withdrawing recognition as an IBO. RSS must do so promptly and, in any event, within five working days from the adoption of its decision. From its side, the Competition Council has the obligation to inform RSS whenever, in the fulfilment of its mission, it ascertains an infringement of competition law. Under these circumstances, national law requires RSS to withdraw the recognition (Paragraphs 37-39).

IBOs agreement and extension of rules

There are no legal provisions in the national framework.

Rules on financing

There are no legal provisions in the national framework.

Rules on representativeness

With reference to the requirement set by Article 126b, paragraph 1, point (c) Regulation (EC) No 1234/2007, the "**significant share of the economic activities**" is to be interpreted:

- In relation to the organisation's members that are milk producers, as referring to the sale of at least 500 tonnes of raw milk over the last 12 months;
- In relation to the organisation's members whose activities involve milk processing and production of milk products, as referring to the processing of at least 5,000 tonnes of milk over the last 12 months; and

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- In relation to each member of the organisation whose activities involve the trade in raw milk and milk products, a turnover of at least 142,280.0 EUR (Paragraph 27).

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

Not applicable

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

In Latvia the current legislative framework for IBOs is still modelled on Regulation (EC) No 1234/2007 rather than on the regime set by Regulation (EU) No 1308/2013. This means that, in accordance with national legislation, IBOs can be established only in the milk and milk products sector. Despite that, there is no IBO recognised in this sector at present and no request of recognition has ever been put forward.

Overall, the national competent authorities refer that there appears to be no interest from the different actors of the food chain in setting up IBOs. In particular, with regard to the milk and milk sector, where IBOs can be established, actors of the milk supply chain would not see any concrete benefit from joining forces within an IBO especially due to that there are no funding opportunities associated with it at EU or national level. In this regard, it should be taken into account that the creation, the recognition and the operation of an IBO involve a heavy administrative and financial burden (e.g. applications, investments, reporting etc.). From this perspective, EU financial contribution towards some of the costs borne by an IBO in the starting period of operation would be seen as a motivating factor for operators to engage in the setting of such organisations.

Finally, it should be noted that in Latvia – and not only in the dairy sector, but in the agricultural sector as a whole - there is a very strong cultural specificity that hinders cooperation activities which could be explained by history and past communism in the country. Economic actors do not want to organise themselves as in the past and prefers individual approaches rather than collective ones. For this reason, producers of raw milk tend to prefer to work through other forms of cooperation, mainly collection cooperatives (horizontal cooperation level) and processing cooperatives, which are seen as quite

successful ways to cooperate. However, the largest share (about 69% combined in 2015) of raw milk was purchased from farmers by processors directly and by private collectors.

So far national competent authorities have maintained a neutral position with regard to the need of setting of IBOs, as they are of the view that the establishment of such bodies must be seen as beneficial from the sector itself in the first place. Against this background, there are plans to run a stakeholder consultation, most likely for the second half of 2016, in order to gather views from interested parties on national legislation in this area, including on the need to expand its scope to sectors other than the dairy sector.

Concerning other forms of cooperation that certain provisions of Regulation (EU) No 1308/2013 provide for in relation to specific products/sectors (e.g. sugar, arable crops, olive oil, live cattle etc.), the competent authorities referred that none of those provisions has been implemented to date. This is due either to the absence of the relevant production in the country (e.g. sugar, wine, olive oil) or the lack of a specific initiative undertaken under that framework.

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

Regulation No. 80/2013 laying down procedures for the recognition of producers organisations in the milk and milk products sector and monitoring of their performance
<http://likumi.lv//ta/id/254907?&search=on>

- National competent authorities

RSS official webpage

<http://www.lad.gov.lv/en/about-us/general-information/general-information/>

Competition Council webpage

<http://www.kp.gov.lv/>