



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

The Director-General

18 MARS 2013

Brussels,
DF/ks – agriddg2.c.2 (2012) 1745394

Dear Dr Kuhlmann,

I am replying to your e-mail addressed to Mr Jacquin, head of unit C.2, olive oil and horticultural products, on two questions related to Articles 50(1) and 26(1) of Implementing Regulation (EU) No 543/2011, respectively.

According to Article 50(6) of Implementing Regulation (EU) No 543/2011, only the production of the producer organisation and/or its producer members which is marketed by that producer organisation is counted in the value of marketed production. The argument that if at least 90 % of the shares of a subsidiary are held by a producer organisation this would imply that the total of the subsidiary's production is to be regarded as production of the producer organisation itself is in our opinion not correct, as this would include also the production attributable to non-members.

As regards the question how the producer organisation's own production has to be treated in the light of Article 26 of Regulation (EU) No 543/2011, it should in our opinion be counted like the production of the members, on condition that the PO is owned collectively by the members as a whole, and not by third parties. The threshold of Article 26(2) should therefore not apply.

This opinion does not prejudice any decision by the Court of Justice, which alone is competent to hand down legally binding rulings on the validity and interpretation of acts adopted by the European Union institutions.

A German translation of this letter will be sent to you as soon as possible.

Yours sincerely,

Pour le Directeur Général empêché
Loretta DORMAL MARINO
Directeur Général Adjoint



José Manuel SILVA RODRÍGUEZ

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