



Overall, the evaluation revealed that the Regulation provides the EU with added value, notably by defining the common rules for the organic market. It has also contributed to the development of the organic farming sector, but regulation is only one factor among many; others include commodity markets, support payments for conventional and organic farming and consumer demand for organic products. Organic sector development continues to vary between Member States, from those in the early stages of development to well established, maturing markets. Barriers to organic conversion continue to exist throughout the EU but again vary in different Member States. There have been clear indications that the EC has taken our evaluation seriously in developing its proposals for a new Regulation and Organic Action Plan. But the EC's own stakeholder consultation and internal impact assessment provide different elements.

Without any doubt the last EU Regulation and Action Plan of 2004 had a massive impact on the development of the organic sector and these forthcoming ones will also.

Reference

Source: Sanders, J (2013) Evaluation of the EU legislation on organic farming. Thünen Institut, Braunschweig, Germany. http://ec.europa.eu/agriculture/evaluation/market-and-income-reports/organic-farming-2013_en.htm

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New EU Organic Regulation: fine words and good intentions are likely to create uncertainty for years to come

*The EU Commission (EC) has published proposals for a new regulation governing the production and sale of organic food in the EU. It is a mix of good intentions and inadequately thought out provisions, based on a limited assessment of the impact on organic production, with too much detail left to delegated acts. Due to be introduced in 2017, it could lead to a decline in the organic sector but before that the proposals will generate much uncertainty. **Susanne Padel** and **Lawrence Woodward** have made an initial assessment.*

In summary, the proposed regulation will:

End all derogations or 'exceptional rules', which means all certified producers will be required to use 100% organic inputs and agricultural ingredients including seed, livestock (including chicks), livestock feed and ingredients for food processing. Transitional rules will be provided separately in a delegated act.

- End parallel production including the use of non-organic livestock on conventional land. It will require the whole farm (unit/holding - not clearly defined) – to be 100% organic.
- Require that all livestock feed – in the case of cattle and sheep, or 60% for pigs and poultry, comes from the farm or 'region', but it does not define what is meant by 'region'.
- Require automatic decertification following low levels of contamination from an 'unapproved substance' (pesticide) even if the contamination is beyond the control of the operator (including farmers). This will create a huge inspection burden which will largely fall on the operator.

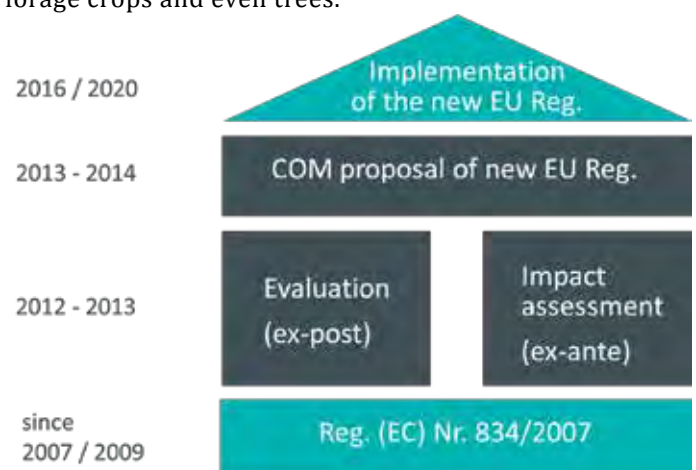
Some of us have been arguing for the end of derogations and a determined move towards whole farm and close to 100%-based organic production for a long time. So shouldn't we be welcoming these proposals? The problem is not so much what they are proposing to do but how and when they might do it.

Uneven development of the organic sector

Organic farming is a biologically based production system that is practised across the ecologically and culturally diverse European Union. As a result it is variable in its development and proximity to being

able to put all its principles into practice. In terms of availability of organic inputs, some countries are much better developed than others, but all have problem areas. At this moment there are few, if any, parts of the EU where the organic sector could operate without some use of non-organic inputs and it is uncertain when this situation can change. DGAgri, the responsible part of the EC, believes that removing derogations will strengthen the organic sector's integrity and environmental performance; although they have produced limited evidence to support the latter claim.

Many countries have major structural obstacles ranging from the make-up of farms to lack of production capacity and market shape and development, not to mention ongoing technical issues, such as nutrition for some classes of livestock and the virtual non-existence of organic plant breeding and organic seed production for a whole range of crops grown including many vegetables, forage crops and even trees.





The dilemma of derogations

It has been frustrating to see how the sector has continuously relied on derogations but there has been some progress. For example, the organic ruminant livestock sector has adapted well to feeding 100% organic rations since the derogation was removed. Some derogations are still needed. Pretending they are not could lead either to a contraction of organic production in some parts of the sector or to higher production costs. The Commission does acknowledge this in its impact assessment and also that *“stricter rules can be seen as a barrier to conversion, notably because insufficient availability of inputs such as seeds in their organic form when stricter rules are implemented.”* It expects this to only be a short-term effect, but we are unclear what this conclusion is based on. The EC has placed much emphasis on the views expressed by citizens but the likely impact on organic producers receives much less attention. The use of delegated acts for the transition from the current rules to the new ones means that the detail of when and which derogation will be phased out is not transparent at present.

The danger and uncertainty of delegated powers

A major problem is that it is unclear how rigidly the new regulation will be implemented. The Commission is proposing to give itself ‘the power to adopt acts to supplement or amend elements of this Regulation’ through ‘delegated acts’ Whilst it can call on a panel of experts for advice it is not obliged to do so and it certainly does not have to hold wide or full stakeholder consultation or engagement on all issues; nor does it have to publish a programme or timetable for its use of such powers. It does have to report their use to the Council of Ministers and the European Parliament but in practice, unless there is a political dimension, this is a formality. The only thing the proposed regulation tells us about how delegated powers will be used is that the EC is obliged to issue a report on the availability of organic seed and plant reproductive material at the end of 2021. In all other areas it is uncertain how flexibly or otherwise delegated acts will be used.

Given the EC’s clearly stated belief that the public want to see an end to exemptions and derogations and that terminating these ‘exceptional acts’ will speed up the development of the organic sector, it can be assumed that, initially at least, the EC will seek to act in a robust and rather inflexible way. It is this and the surrounding uncertainty which could devastate the sector.

Lacking in detail and clarity

One can criticise the way the proposed regulation has been written and how the document has been structured but the EC’s clear statement that it is setting out to create a regulation based on organic principles and in accord with people’s expectations of organic should be welcomed. The fact that the EC is trying to ensure these principles and expectations are brought into practice should be applauded. As it stands, however, the proposal is too full of uncertainty and many seemingly ill-thought-through proposals where difficult details have been left to the EC to sort out with its delegated acts. There are too few places in the document where one can place a tick and far too many question marks.

Here are a few key points:

- ✓ Risk based controls will be introduced removing the need for annual inspections for low risk operators
- ? Control is to be split between DG Agri and DG Sanco with the latter taking the lead. An end-product-focused approach is inappropriate to dealing with the nuances of an ecological approach to production processes and systems.
- ? Group certification will be introduced to encourage smaller producers (under 5ha) to become certified. Whilst it should be applauded to reduce certification costs for them, some certification bodies are opposed to this and there are likely to be complaints of unfair treatment from small farmers with holdings over 5ha.
- ? Only one certifier will be allowed in any specific supply chain. This is intended to avoid cracks and opportunity for fraud or miss-selling. It is unclear how it will work and whether it constitutes unwarranted intervention in the Single Market.
- ? Harmonisation of actions for non-compliance throughout the EU will be introduced but there is no definition or detail.
- ? Some good intentions are expressed about harmonising third country equivalence and controls but changes could impact both positively and negatively on domestic production. There has been no adequate risk assessment published.

Unknown impacts could be devastating

Overall and in some specifics the proposals are far-reaching and will have a huge impact on some individual operators, some types of organic businesses and the viability of the whole EU organic sector in its current form. Although alongside the proposal the EC has published its own impact assessment it does not, in our view, adequately assess these impacts. It looks as if the EC has been overwhelmed by its own good intentions and swamped by the unbalanced responses, 60% from France, to a poorly framed public consultation.

It is clear from both the EC’s internal review and the commissioned external evaluation of the existing regulation that changes had to be made. But it is far from clear that a whole new regulation is needed. Nor is it clear who, outside of the EC, supports these proposals.

The proposals will now go into trilogue discussions (between the EC, Council of Ministers and European Parliament). Some member states, including the UK, have already indicated significant unease with the proposals and it is hard to see that the draft will be passed in its current form. However, the EC has built its proposals on the moral authority of the goal of enhancing the integrity of organic production in response to public demand. The perspectives of the organic sector and member states can be cast as protecting vested interests. This would be very short-sighted. Without producers who are willing to farm organically the expectations of consumers for a high quality organic product with low residues cannot be met.

We shall know more in the coming weeks and months and will keep you informed.

The new proposal and all the supporting documents can be found at http://ec.europa.eu/agriculture/organic/home_en