



So what has the current EU Organic Regulation ever done for us?

The European Commission (EC) has just announced its proposals for a new organic regulation and a new EU wide Organic Action Plan (see page 15). Before finalising these, in 2012 it commissioned an external ex-post evaluation of the existing regulation to run alongside an internal ex-ante impact assessment of the new one. ORC was part of the evaluation team and here **Susanne Padel** and **Jörn Sanders**, who led the study, summarise some of the key conclusions.

Why evaluate the EU organic food regulation?

The organic sector in Europe has grown substantially in the last 20 years, both in land area and retail sales. During this period the EC introduced two consecutive regulations governing the production, labelling and inspection of organic food and farming. In 1992, an EU-wide definition of organic farming was introduced with the Council Regulation (EEC) 2092/91. This provided the basis for consumer trust and for policy support, and has helped protect organic farmers against false and misleading organic claims. After many amendments this first regulation was replaced in 2009 by the current Council Regulation (EC) 834/2007 and implementing rules.

Scope of the evaluation

The focus of our evaluation was to explore the adequacy of the current rules for organic production, controls, labelling and trade with third countries, with respect to achieving the objectives as they are stated in the in Articles 1 and 3 of the Regulation. These are to 'provide a basis for sustainable

development of organic production, while ensuring the effective functioning of the internal market, guaranteeing fair competition, and ensuring consumer confidence and protecting consumer interests.' Furthermore, organic production shall 'establish a sustainable management system for agriculture, aimed at respecting nature's systems and cycles, contributing to high levels of biodiversity, protecting natural resources, producing products of high quality and a wide variety of foods and other agricultural products that respond to consumers' demand.'

The EC specified eight evaluation questions (EQs) that the team had to address. Key conclusions summarised in this article relate to production and processing rules including objectives, principles and some exceptional rules (EQ2); control systems (EQ3); import regime (EQ4) and labeling/consumer perception of organic farming (EQ5). The report also addresses further questions relating to the scope (EQ1), degree of simplification of the current legislation compared to before 2009 (EQ6), creation of EU added value (EQ7) and sustainable development of the organic farming sector (EQ8).

Table 1: Contribution of production rules to objectives and principles

Production rules	Respect nature systems/cycles	Contribute to bio-diversity	Make responsible use of natural resources			
			Energy	Water	Soil	Air & climate
Prohibitions [A: 4 (a) iii and (c)]						
No mineral nitrogen fertilisers [A: 12.1 (e)]	✓	✓	✓	✓	✓	✓
No herbicides, only authorised products [A: 12 (h), B: Annex II]	✓	✓	✓	✓	✓	✓
No landless livestock production [B: 16]	✓		✓			✓
No hydroponic production [B: 4]	✓			✓	✓	
No use of GMOs [A: 9]	✓					
Strict control of external inputs [A: 4 (b)], minimisation of the use of non-renewable resources [A: 5 (b)] and recycling of wastes and by-products [A: 5 (c)]						
Only permitted fertilisers: low-soluble mineral fertiliser [A: 4 (b) iii] and soil conditioners when need proven [B: 3, Annex I]	✓	✓			✓	
Only authorised plant protection products when established threat [A: 12.1 (h), B: Annex II]	✓	✓			✓	✓
Feed primarily from holding or same region (with exceptions) [A: 14.1 (d)]	✓		✓			
Stocking density and use of livestock manure restricted to maximum of 170 kg N/ha and year [B: 3 & 15.1]	✓	✓	✓	✓	✓	✓
Obligations to use good husbandry practices and prevention [A: 4 (a) iv and 5]						
Maintain crop health through prevention (natural enemies, the choice of species and varieties, crop rotation) cultivation techniques and thermal processes [A: 12.1 (g)]	✓	✓	✓		✓	
Number of livestock limited to minimise overgrazing, poaching, soil erosion or pollution [A: 14.1 (b) iv]	✓	✓		✓	✓	✓
Preference for inputs from organic origin (Art 4b with exceptions (Art 4d))						
Manage entire holding organically (with exceptions) [A: 11]	✓	✓	✓	✓	✓	✓
Only organic seed (with exceptions) [A: 12.1]	✓					
Only organic feed (with 5 % exceptional rule for monogastrics) [A: 14 (d) ii]	✓					



This article focuses on results relating to production rules, the control rules and consumer perceptions.

What we looked at

The evaluation was based on the following sources:

- 13 national case studies (consisting of 246 interviews with key stakeholders, and an analysis of national regulations, private standards and grey literature) which provided in-depth knowledge of the implementation of legislation in individual EU Member States.
- Specific case studies of one fraud case 'Gatto con gli stivali' to understand how effectively the control system deals with fraud.
- Web-based stakeholder survey with 265 respondents, mainly about their attitudes to the control systems.
- Case studies of three 'suspected' cases of organic products imported from countries outside the EU to understand the adequacy and effectiveness of the import regime.
- Interviews with EU-level stakeholders/experts, supplemented by the analysis of a large number of relevant European documents.
- Web-based consumer survey with 3 000 respondents conducted in six Member States (Estonia, France, Germany, Italy, Poland and the United Kingdom) to fill gaps in the literature regarding the degree of knowledge about, and the perception of the EU organic logo and some other issues.

Key conclusions – overall objectives and principles

The evaluation concluded that the Regulation is generally adequate and provides a sound basis for sustainable development of organic production in the European Union, but pointed to a number of areas where the regulatory framework could be improved.

- Scientific literature confirms that organic farming delivers in developing a sustainable management system for agriculture and some of these effects can be directly linked to the rules laid down in the Regulation (see Table 1).
- Stating the objectives and principles of organic agriculture within the Regulation has contributed to a more harmonised perception of the concept of organic farming, particularly among control bodies and competent authorities.
- However, not all areas for which objectives and principles are stated are detailed in the rules: for example, in relation to energy use and water management.
- Nor do the production rules fully limit the intensification of some production sectors, such as housing for poultry or greenhouse production.
- One aim of the 2009 revision resulting in Regulation 834/2007 was simplification, which in the context of agricultural policies in Europe means reducing red tape for both farmers and administrators by making rules more transparent, easier to understand and less burdensome to comply with.
- The evaluation concluded that the current legislative framework for organic farming has significantly improved transparency compared with before 2009, but it has not simplified administration and management.

Key conclusions – exceptional rules

The system of exceptional rules was established to cater for differences in the state of development of the organic sector throughout Europe when the Regulation came into force.

- Our evaluation examined three exceptional rules which allow for the use of non-organic inputs (young poultry, feed for monogastrics and seeds) and found each case to be different regarding the extent of use of exceptions and the present availability of organic inputs.
- The present system of exceptional rules has not resulted in improvements in the availability of organic supplies for all inputs. However, lack of data across the EU and all sectors prevents firm judgment being reached in all cases.

Key conclusions – control, labelling and consumer awareness

The rules relating to control were found to be mainly adequate, but effectiveness and efficiency could be improved through moving to a system based on risk-assessment.

- In some member states shortcomings in the supervision of the control bodies and in the information exchange were noted.
- The labelling rules address the use of the protected terms and include provision on the EU organic logo, which aims to increase recognition of organic products in all EU countries.
- Across six countries, a quarter of respondents recognised the new EU organic logo, ranging from 13% in Poland to 17% in the UK and 36% in Estonia.
- High recognition in France (35%) was attributed to the fact that the 'Euroleaf' has been clearly associated with the well-established French national AB logo.
- It is recommended to explore how the logo could be more visually associated with the protected terms, for example by stating the indication of the control body in the same colour and directly next to the logo.
- The majority of respondents to a consumer survey (3000 participants in total, 500 each in six countries) were familiar with the main issues of organic farming, such as growing without the use of synthetic chemicals, and production by methods protecting the environment or without the use of genetically modified seeds.
- However a large proportion also thought that some 'incorrect' statements were part of the legal definition, such as 'needs to be produced on small farms' and 'needs to be produced locally'.

Key conclusions – import regime

In the last two decades, organic supply and distribution chains have become increasingly organised globally. For farmers and consumers in the EU, it is important that organic products from third countries are produced according to equal requirements and that control systems guarantee conformity to the same extent as within the EU. The present import regime was judged to be largely adequate in terms of achieving the global objectives of the Regulation, but with some shortcomings mainly in relation to the resources required to assess equivalence. Importers reported that the process can be rather slow and remains only paper based.



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.

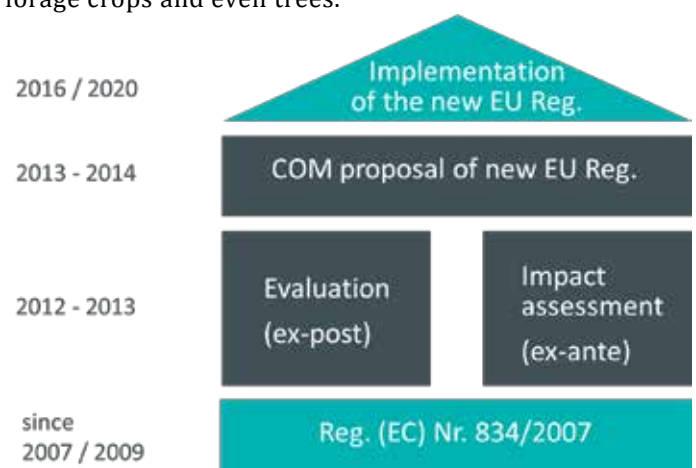
Some of us have been arguing for the end of derogations and a determined move towards whole farm and close to 100%-based organic production for a long time. So shouldn't we be welcoming these proposals? The problem is not so much what they are proposing to do but how and when they might do it.

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 later 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