

Residues re-open argument on organic standards

'The residue contents in organic food distinguishes [it] significantly from conventionally produced food. While in conventional products residues can often be detected... organic food [is] to a high percentage (95%) free of residues'

Prof. Dr. Edelhäuser

Dr. Edelhäuser is a food chemist at the Ministry for Nutrition and Rural Areas in Baden-Württemberg, a German Bundesland. His department is responsible for consumer protection and food surveillance, and deals specifically with residues and contamination. On the issue of residues Dr. Edelhäuser claims that organic and non-organic produce can be distinguished from each other by measuring the level of residues resulting from environmental contamination and drift found on the produce. Only a small percentage of organic products contain residues of plant protection substances. Taking into account the quality and quantities of these substances, Dr. Edelhäuser concludes that when organic products are found with pesticide residues above a defined limit a non-permitted practice has occurred or the produce has been mixed with conventional produce. Edelhäuser and his department defined the level where contamination from residues is considered as 'an analytical zero value' to be 0.01 mg/kg (limit of evidence). The Ministry assumes that all organic products that are produced in compliance with the organic EU Regulation would be below this limit. This means that all products with any pesticide residue higher than 0.01 mg/kg are, by definition of the department, produced under fraudulent practices. And as the

Ministry states: 95% of the organic products are free of residues, this means that 5% of the organic products contain residues and are therefore – from the perspective of the Ministry – produced under fraudulent practices.

Dr. Edelhäuser's department is the authority responsible for the surveillance of food production in Baden-Württemberg. In 2002 the Ministry initiated an organic monitoring programme for analysing residues in organic products. Within the programme the Ministry appointed three people from the states laboratories to deal with the analysis of organic products. When staff of the states laboratories detect pesticide residues above 0.01 mg/kg, the Ministry imposes financial penalties on the trader or producer of the products for false labelling and prohibits the further selling of the product. It also informs the competent authority on the results of the analysis, the conclusions it has drawn and the penalties imposed by the department. It does not seek informed advice from the competent authority or inspection bodies.

Dr Edelhäuser explained that the Ministry felt this programme was necessary as it was worried that the EU Regulation does not provide sufficient

room for manoeuvre and sanctions in fraudulent cases. The procedures required by the EU Regulation to prove fraud, when contaminated products had been detected, were considered to be too slow and, the Ministry felt, would have allowed contaminated products to be sold despite the suspicion of fraud. The Ministry sought for a solution to this problem and found it in the German food law. According to this law, residues of plant protection products in organic food are judged to be consumer deception if non-compliance with the EU Regulation can be established, based on the detected residues. However, all this is based on assumptions. As yet the Ministry has not provided any proof that products containing more than 0.01 mg/kg residues have been produced fraudulently, according to the organic regulation.

Hanspeter Schmidt, an attorney at law, harshly criticises the actions of the Ministry as illegal. He accuses the Ministry of reopening the 'fight on ideology and culture' between conventional and organic production. He felt that suppliers of organic products would be intimidated by the threat of a public court hearing in cases where they object to a monetary fine. Such proceedings would only be stopped by the authorities if the accused party pays thousands of Euros. *'Those who care for their public reputation, bows to the authority, not everybody can bear to be denounced as dishonest'*, says Schmidt.

Indeed, it is an old discussion in a new surrounding. Over the years the majority of public research institutions and laboratories have denied that organic products are better than

The Ministry believes that a pesticide residue higher than 0.01 mg/kg implies fraudulent practices.

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conventional products. The EU regulation even requires that the label on organic produce does not claim that it ‘constitutes a guarantee of superior organoleptic, nutritional or salubrious quality’ (EEC 2092/91, Art. 10.2). This means that it is illegal in the EU to make any claims that organic produce tastes better, is more nutritional or is healthier for the consumer than conventional produce. Consequently the EU-regulation describes in detail the inspection regime for the surveillance of the organic production based on a procedural inspection system. Taking and analysing samples may be part of the inspection regime, but it is only obligatory ‘where the use of unauthorised products is suspected’ (EEC 2092/91, Annex III, Art. 5).

Fifteen years ago the organic movement fought hard to convince legislators that the specific quality of organic agriculture is the production method itself and not just the output, *i.e.* the final product. With the passing of the EU regulation 2092/91, the movement achieved its aim. The production method of organic agriculture and its inspection scheme, using procedural inspections of farms and companies instead of analysing the final product, were legally defined. The approach taken by the Ministry in Baden-Württemberg disputes this legal definition of the EU Regulation. While they argue that the procedures and inspection scheme foreseen in the EU Regulation would be too slow, they have simply redefined organic production by assuming that organic products produced in compliance with the EU Regulation would not contain any residues. Just as it was twenty

years ago, the Ministry is trying to reduce the organic production method to a ‘zero-residue-production’ and rejects the value of the inspection system according to the EU-Regulation. In a panel discussion during BioFach, Dr Edelhäuser argued that organic agriculture could no longer just tolerate drift from conventional farmers. His argument was not that conventional farmers should be made liable in case of drift, but that organic agriculture should not be allowed to take place where drift is possible. The resulting application of this argument would be the elimination of organic agriculture from vulnerable areas. For instance, in southern Germany, where the plots are small and narrow, and where it is often impossible to grow hedges between neighbours, organic production could not exist under these conditions.

Although the stance of Baden-Württemberg Ministry threatens honest and honourable organic producers, there has been only a restrained reaction within the organic movement. The Bundesverband Naturkost Naturwaren (BNN), an association of organic traders and processors, has remained silent in public, which may be due to how the BNN itself is dealing with residues. In 2001 the BNN implemented the ‘orientation value’, a system in which BNN members sign a contract with their suppliers that the maximum level for residues in organic products would be the ‘orientation value’. If a product has a residue level that exceeds the ‘orientation

value’ it is suspected to be conventional. The BNN ‘orientation value’ serves as limit. If this limit is exceeded an investigation is carried out to determine the source of the contamination. Apart from two specific substances that have a higher value, the ‘orientation value’ for pesticides is 0.01 mg/kg. The difference between the BNN position and the Ministry of Baden-Württemberg seems, at first glance, to be quite small. However, the distinction in their attitude is quite substantial in one particular regard: where the BNN suspects fraud, the Ministry insists fraud has taken place. Nevertheless, the approach taken by the Ministry’s can be seen as just one step further.

At least the BNN tried to deal with the problem of residues whereas the majority of the organic movement and the certification bodies in Germany do not seem to have a policy to deal with residues.

Recent scandals concerning contamination with chlormequat and nitrofen in Germany have shown that it is not sufficient just to deny the value of analyses in organic agriculture without a system for dealing with contamination. The organic movements needs to develop policies that can cope with these issues, whether they occur unexpectedly, as with chlormequat, or are caused by fraud or unacceptable negligence, as in the nitrofen case. If a policy cannot be provided by the organic movement it is quite likely that the view point of reducing organic production to a zero residue production will gain the upper hand. ■

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