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PART C

Overall conclusions and recommendations

Chapter 14

Towards an improved legislative framework for organic farming – Overall conclusions and recommendations

14.1 Introduction

The European organic farming sector has been characterised by continuous growth; between 2000 and 2011 the organic area in EU Member States more than doubled. In 2011, more than 9.5 million hectares of agricultural land was managed organically in the European Union, on nearly 240 000 farms. This translates into an average share of 5.4 % of the total agricultural area. An equally dynamic development can be observed with regard to demand for organic food. The total value of the EU-27 organic market was approximately 19.7 billion EUR in 2011. Not surprisingly, from a global perspective, the EU organic farming sector is a key player with a share of 26 % in the global organic area and the second largest market for organic food in the world.

The first EU legislation on organic farming, Council Regulation (EEC) 2092/91 in 1991, has been identified as one important driving force for this development (Dabbert et al., 2002; Stolze and Lampkin, 2009). It provided a legal definition of organic farming through production rules as well as defined control and labelling requirements. This helped to protect organic farmers and consumers against false and misleading organic claims. Following on from the European Action Plan for Organic Food and Farming (European Commission, 2004), the original regulation was substantially revised, resulting in Council Regulation (EC) 834/2007 and its implementing regulations.

The focus of this evaluation has been to explore the adequacy of the current rules (in force since 2009) on organic production, controls, labelling and for trade with third countries, with respect to achieving their objectives. These objectives are laid down in Articles 1 and 3 of the Regulation. The rules aim 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”* (global objectives of the Regulation). 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”* (objectives of organic production).

The global objectives of the Regulation are closely related to specific needs of the organic sector in the EU and its development over the last twenty years. The sector was characterised, for

example, by different national and private organic standards, different logos and the need for the protection of the term 'organic' in the context of agricultural products. The extent to which the objectives of the Regulation are still relevant or whether the Regulation should pursue additional or alternative objectives has not been part of this evaluation.

Besides examining the adequacy of the rules for production, control, trade with third countries and labelling, the evaluation has also addressed a number of other relevant issues, such as a) whether the scope of the Regulation is adequate to meet the current needs both of the organic sector and consumers of organic products; b) whether the current legislative framework has contributed to achieving a simplified administration and management of the legislative measures; and c) the extent to which the legislation has created EU-added value and contributed to a sustainable development of the organic farming sector.

In the following sections, and in line with the structure of the Regulation, conclusions and recommendations are made, firstly regarding the scope of the legislation and secondly regarding the rules for production, controls, trade with third countries and labelling. These are based on the descriptive part and the replies to the evaluation questions. Subsequently, conclusions and recommendations are made with respect to the link between the EU legislation on organic farming and other EU policy areas. In the final section of this chapter, the individual recommendations are grouped into six types of measures within two fields of action.

14.2 Conclusions and recommendations in relation to the scope of the EU legislation on organic farming

When conceiving the Regulation, the Council pointed to the dynamic evolution of the organic farming sector and stressed the need to examine the adequacy of the current scope (see Article 41 of Regulation (EC) 834/2007). In relation to this, particular attention has been paid in recent years to the areas of mass catering and non-food products (e.g. textiles, cosmetics).

The analysis has shown that the scope of the Regulation is mostly adequate to match current needs of organic farming supply and distribution chains, but not fully adequate to meet the needs of consumers of organic products, taking the following into account:

- Lack of clarity exists mainly with regard to non-food products closely related to organic agriculture, such as wool, beeswax, some essential oils and herbs for medicinal use.
- In some Member States national and/or private provisions exist for organic mass catering. There is limited evidence of intra-community trade, so the absence of a uniform EU standard does not impact on the fairness of competition among operators in catering services. There is some support among stakeholders for the inclusion of mass catering under the scope of the Regulation to improve clarity for consumers and to increase potential for recognition of organic farming within green public procurement. However, inclusion could increase the

regulatory burden on the sector and therefore has the potential to hinder rather than the support the development of this sector.

- Various non-food products (such as body care products and cosmetics, household cleaning products and textiles) using organic claims are found in retail outlets. This is likely to cause confusion for consumers and could undermine trust in the organic label for food products. However, the labelling requirement of a minimum of 95 % of organic ingredients that applies to organic food is not transferable to cosmetics and textiles. Private standards and international initiatives exist which are developing harmonised and accepted minimum criteria for the regulation of such products.

Based on this judgement, the following recommendations are made that aim to ensure the adequacy of the legislation with respect to achieving its objectives.

Clarifying the scope

The analysis showed that the current scope of the EU Regulation is generally understood by consumers, but a lack of clarity exists with regard to non-food products closely related to organic agriculture. **It is therefore recommended that the legal situation is clarified as to how an organic claim can be communicated on such non-food products if they are produced in accordance with Regulation (EC) 834/2007.**

Mass catering

Stakeholders remain concerned that the increased regulatory burden entailed by the inclusion of organic mass catering could stifle potential growth of the sector. However, greater clarity would make it easier to promote the use of organic raw materials in public procurement, encourage intra-EU trade in this area and improve clarity for consumers, particularly in Member States where no national rules on organic mass catering exist. **It is therefore recommended not to extend the scope to include mass catering, but to encourage Member States to explore possibilities for encouraging the use of organic products in the context of green public procurement, in particular in the area of mass catering.**

Non-food products

To include non-food products, their specific characteristics need to be considered, which risks making the Regulation more complicated. However, consumer confusion with regard to non-food products using organic claims should be addressed. **It is therefore recommended not to extend the scope of the Regulation to cover cosmetics and textiles, but to explore (taking existing initiatives into account) what constitutes a legitimate organic claim and whether this provides opportunities for an organic claim and/or logo to be used on such products.**

14.3 Specific conclusions and recommendations in relation to the rules of the EU legislation on organic farming

14.3.1 Production rules

Organic production is an integrated farm management system which aims to preserve natural resources, apply high animal welfare standards and produce high quality food. The objectives and principles of organic production are operationalized through production rules in the Regulation and the related implementing rules which provide the legal definition of organic farming in the EU.

The analysis has shown that the production rules are generally in terms of achieving the global objectives of the Regulation and the objectives of organic production, as laid down in Council Regulation (EC) 834/2007, taking the following into account:

- There is sound scientific evidence that the Regulation has established a framework which guides farmers to adopt practices supporting the aims of organic agriculture of contributing to higher levels of biodiversity, increased soil fertility and minimizing water and air pollution. Some of these effects can be directly linked to the rules laid down in the Regulation, and some are derived from stricter national and private standards of certain Member States.
- However, the production rules do not fully limit the intensification of some production sectors, such as housing conditions for poultry (despite the existence of detailed rules) or greenhouse production (with no common implementing rules at EU level). Also, some objectives stated in the Regulation addressing the whole sector (e.g. responsible use of natural resources) and some terms (e.g. 'sustainable development', 'respect for nature systems and cycles', 'sustainable use', 'region' or 'factory farming' in relation to input use), which could have a potential impact on intensification, are not further defined.
- The production rules form a good basis for producing products of high quality and satisfying consumer demand for a variety of food products.
- The system of exceptional rules, established to allow regional differences in climate, stage of sector development and specific husbandry practices to be taken into account, seems to be not fully adequate. A definitive judgement is difficult because of a lack of reliable data on the availability of organic supplies, but for some sectors the present system appears to hinder rather than support development and increased use of organic supplies.
- The GMO provisions are adequate to ensure the lowest possible adventitious presence of GMOs in organic products. Very few cases of contamination were reported over the past years. However, stakeholders are concerned about the constraints and additional burdens if the labelling thresholds were to be lowered further (mainly due to higher costs for separating and analysis). There are concerns about future availability of GMO-free ingredients (in particular some enzymes and vitamins B2, B12 and ascorbic acid), as well as the reliability of GMO-free vendor declarations.

- The common framework of production rules appears to provide generally a good basis for fair competition among producers. The analysis of provisions and other information indicates however for some areas (such as definition of ‘region’ in relation to feed use or ‘factory farming’ for manure use) the absence of precise definitions has a potential negative impact on fair competition, but the lack of data does not allow firm conclusions to be drawn. Further market analysis and the collection of comparative data of costs of production in different Member States would be necessary to carry out an objective assessment.

Based on this judgement, the following recommendations are made with a view to ensuring the adequacy and increasing the effectiveness of the legislation in achieving its objectives.

Structure and scope of the production rules

The production rules provide a system-based framework relying on principles with emphasis on the need for prevention instead of direct intervention against certain problems (pests, diseases, weeds), restricting the use of external inputs (with some prohibitions), and defining practices that contribute to a variety of beneficial outcomes. Scientific literature confirms that the systems approach delivers on many aspects of the overall objective of organic production. Stating objectives and principles in the main Regulation has contributed to a common understanding of the concept of organic agriculture, but some uncertainty for some control bodies and control authorities as to whether these are legally binding was observed. Also, the link between specific production rules and the objectives they are designed to support is not always clear. **It is therefore recommended that the legal text is simplified to clarify the legal status of the objectives and principles of organic production. It is also recommended that further guidance is provided on how specific rules link to the objectives of organic production and that there is further clarification of ambiguous terms. Dialogue on the interpretation of the rules is to be encouraged at all levels between the Commission, national authorities and control bodies.**

Adequacy of the production rules to achieve the objectives of organic production

The organic rules already have a strong, positive influence on high levels of biodiversity and soil and water protection, but practices that have a direct positive impact (e.g. instructions on habitat management, ecological focus areas, etc.) are not clearly defined. There are, for example, no detailed rules on the responsible use of energy and water. In the case of water, however, such rules would be useful only in those regions where water is a scarce resource. **It is therefore recommended that ways to address the issues of the sustainable use of energy and water and biodiversity conservation and habitat management are explored.**

Whilst the organic production rules already contain many good provisions with potential impact on animal welfare, the objective of ‘respecting high animal welfare’ cannot be achieved by rules alone, but further improvement in animal welfare could be achieved through better monitoring of existing rules to raise farmers’ awareness. **It is therefore recommended that adequate well-targeted output-based criteria are developed for the monitoring and enforcement of animal**

welfare outcomes that can be used by operators in self-assessment and also as part of control visits.*Adequacy of the production rules to ensure fair competition*

The current rules appear to provide a good basis for fair competition, but some problems arise from different implementation in the Member States, which may have implications for production costs. This could be caused by lack of detail in the EU Regulation, by issues that are left to the discretion of EU Member States or by issues arising from national rules that also apply to organic producers. Providing more guidance on the definition of certain terms (see above) would help to reduce the amount of differences in interpretation and implementation across the Member States.

The availability of comparable data on costs of production or intra-EU trade, which would be required to assess the quantitative impact of various rules on potential distortion of competition, is very limited. For example, only rough estimates are currently possible to assess the impact of varying definitions of the term 'region' on feeding costs and the competitiveness of organic farmers. **It is recommended that a consistent EU-wide approach is taken to the definition, collection and publication of statistics and market data for the organic sector.**

Exceptional rules

Exceptional rules were provided for in the basic legislation in order to encourage and facilitate conversion at the beginning of the entry into force of this legislation when harmonisation had not yet been attained. It is the nature of exceptional rules that they are an exception from the norm and should be time limited. The evaluation examined three of them that allow for the use of non-organic inputs (young poultry, feed for monogastrics and seeds). Each case is different regarding the extent of use of the exception and the availability of organic inputs.

The exceptional rules for the use of non-organic young poultry consist of two parts: a) use of non-organic chicks (less than 3 days old, currently not time limited) and b) use of part-organic reared pullets (complying with rules on feeding and veterinary treatment inputs but not with those on origin of animals and housing; due to expire on 31 December 2014). Both exceptional rules are extensively used in all of the case study countries except in Denmark, where national rules have been introduced. In the other countries, no data on the level of undersupply and progress made were available. According to stakeholders, the existence of the exceptional rule itself and the lack of an EU standard for pullet-rearing have hampered the development of supplies of entirely organic pullets. **It is therefore recommended that provision is made for organic pullet rearing and hatchery at EU level, followed by a phasing out of the exceptional rule on the use of part-organic pullets.**

There are insufficient data regarding the use of the exceptional rules for use of non-organic protein feed for monogastrics or the availability of organic supplies, consequently no quantitative analysis of the justification of this rule could be made. Stakeholders and experts believe that

most monogastrics breeders feed 5 % conventional high protein crops and by-products (such as potato protein, maize gluten products). The organic (and general) production of pulses in the EU is insufficient to meet the demand of the European livestock sector, but there may be promising early stage development of alternative feed products for monogastrics. Moving quickly to 100 % organic feed could result in a high reliance on extra-EU imports used to balance rations, rather than stimulating EU supplies of high quality protein. This may conflict with consumers' preference for local production and for feed from the farm or region. It might also result in further pressure to allow synthetic amino acids as feed ingredients. Although this could compromise the credibility of organic farming which generally tries to avoid synthetic inputs, it is also likely that some pressure is needed to stimulate change. **It is therefore recommended that the development of organic high protein feed supplies in the EU is supported through research and knowledge exchange as well as specific CAP measures, and that the development of supply and demand (supply balance) of organic high protein feeds supplies in Europe is monitored.**

The exceptional rule for non-organic seed is also widely used. Of the case study countries, Austria, Denmark, France, and Germany were able to develop (for some species) an organic supply to meet national needs. However, at EU level the current system did not lead to significant improvements in the supply of organic seeds. In countries where the organic seed supply for some species is reaching satisfactory levels, phasing out the exceptional rules may restrict access to locally adapted and traditional varieties as required by the organic principles and crop production rules. This is particularly the case for sectors where many different species and varieties are grown, such as fruit and vegetables and forage production. The seed database appears to be a useful tool for managing the exceptional seed rules system, but some shortcomings were observed. **It is therefore recommended that the use of the seed database is harmonised and improved through regular updating of lists of available species and varieties and that further exchange of information between countries is facilitated in order to broaden the market.**

Overall, the analysis led to the conclusion that monitoring of supply balances is necessary to make a sound judgement on the justification of such exceptions. For the cases evaluated, there is a clear indication that the existence of exceptional rules has impeded the development of organic supplies in the EU, partly because of higher costs of organic supplies which act as a disincentive for their use.

14.3.2 Rules on controls

Since 1991, organic farming in the EU has been regulated to ensure that consumer confidence in organic products is justified, that fair competition is guaranteed and that the internal market is functioning. To this end, Council Regulation (EC) 834/2007 foresees a two-fold control system of competent authorities delegating control measures to control authorities and control bodies, which implement audits specific to organic production. Against the background of a continuously

expanding organic sector, after two decades of regulation of organic farming at EU level, this evaluation examines, among other things, whether the current control system is adequate to achieve the global objectives of the Regulation as mentioned above.

The overall control system of organic farming was judged to be largely adequate in terms of achieving the global objectives of the Regulation, but with some shortcomings in implementation, taking the following into account:

- Annual inspection requirements are adequate to ensure fair competition and consumer confidence, although risk-based approaches could achieve the same aims at lower costs. However, guidance at EU level may be necessary to ensure a harmonised approach.
- Additional risk-based inspections required by the Regulation are in general an adequate tool to ensure fair competition and consumer confidence. However, they are implemented differently across the Member States and in several countries only to a limited extent. At present, the full potential of risk-based approaches is not exploited. Further development of risk-based approaches is necessary so that they can be applied to the organic control system.
- Exemption from the control system for operators who sell products directly to the final consumer or user are adequate and justified in cases where such operators only sell packed and labelled food. In such cases, the upstream actors of the organic supply chain were already subject to the control system. However, there is an indication that this exemption is only justified if the supervision system ensures that such retail businesses are notified to the respective competent authorities and that the conditions for the exemption are periodically verified.
- Not all elements of the control system are consistently implemented across the Member States. This leads to a situation whereby, between Member States and even within one Member State, organic operators and products could be differently evaluated with respect to residues, and also operators could receive different sanctions for committing the same infringement. Thus for these areas, fair competition among organic operators and among control bodies cannot be not guaranteed.
- There is no robust indication that the distribution of responsibilities among the main actors involved in the control system is inadequate.
- The national supervision systems are not fully adequately and effectively implemented in some Member States due to insufficient procedures for supervision and limited resources of competent authorities to fulfil the supervisory role.
- There are some deficiencies in the exchange of information illustrated by the analysis of the recent organic fraud case.
- Consumers largely have confidence in the organic control system. But this trust is built upon perceptions and not on factual knowledge.

Based on this judgement, the following recommendations are made which aim to ensure the adequacy and increase the effectiveness of the legislation with respect to achieving its objectives.

Organic control system based on risk-assessment

To avoid opportunistic behaviour on the part of organic operators and to ensure that control measures are not overly predictable, the control system should adopt a toolbox approach whereby control measures can be applied according to risk, operator type and context. The core element of such an approach is therefore risk-based. This would allow for the identification of low-risk and high-risk operators, thereby creating a more targeted and dynamic approach to the control process. Such a system needs to be developed as a learning system which is able to adapt to changing influences on and challenges for the integrity of organic farming. It is important to bear in mind that such a dynamic approach is not compatible with the static approach of the mandatory annual control visits as currently implemented in the Regulation. **To improve the effectiveness of the organic control system, it is therefore recommended that the organic control system is based on risk-assessment.**

In particular it is recommended that:

- risk-classification tools are used to determine 'low and high risk' operators as well as type of control (announced/unannounced), control frequency, control depth and a selection of additional control measures. The intention of risk-based approaches is not to reduce the total number of controls, but to base the control frequency on risk assessment. Furthermore, given that regular annual controls can be communicated easily to consumers to ensure consumer confidence, risk-based approaches could be used to adjust control duration and control depth of annual, on-the-spot visits depending on the risk classification of operators. However, to maintain the random nature of the control procedure for organic operators, dynamic changes in the control frequency and depth are required;
- the use of a set of control measures embedded in the overall risk approach is enforced to be applied dynamically; for example, consisting of inspection of animal welfare parameters, use of residue sampling, testing and analysis during the production process, use of cross-checks along the entire organic supply chain, risk-based and detailed review of bookkeeping accounts, and prompt follow-up in case of non-conformities;
- the use of new technological devices and analysis techniques for on-site controls should be explored;
- specific training for control bodies and inspectors on risk-based controls at EU and national level should be introduced taking into account that a risk-based approach requires additional knowledge and competences (compared to an annual control approach) to address adequately different risk cases.

Supervision systems of the Member States over control bodies and control authorities

The supervisory system of the Member States should aim to prevent opportunistic behaviour on the part of control bodies and control authorities. So far the notion of supervision of control bodies as implemented in some Member States is that of focusing too much on formal requirements involving extensive reporting. The supervisory systems of Member States should consist of a variety of tools and procedures to be applied dynamically in order to make the process more efficient.

Competent authorities are required to ensure that the control tasks delegated to control bodies or control authorities are carried out properly. To monitor the work of these bodies, competent authorities use audits and other supervision measures. The effectiveness of supervision could be improved by strengthening guidance so that a common understanding of the organic farming legislation among control bodies/control authorities exists. Guidance is particularly important, since a risk-based approach is not a static system but requires additional skills as described above. As competent authorities are in direct contact with the control bodies and control authorities, they could take particular responsibility to convey the key concepts of organic farming and the EU organic farming legislation to control bodies and control authorities. **It is therefore recommended that the knowledge, skills and capabilities of the competent authorities is increased through adequate capacity building and training.**

Information exchange between the actors inside and outside the control system

Effective information exchange should be quick and efficient for all control bodies, control authorities and competent authorities in order to speed up reaction times. Furthermore, in order to increase the effectiveness of on-site controls, it would be useful to give control bodies access to existing operator data so that such information does not need to be collected again during the control visit. This would allow inspectors to focus more on the actual inspection during an inspection visit. **It is therefore recommended that the Organic Farming Information System (OFIS) is improved and that the Commission considers whether it is appropriate to extend its application to other actors in the control system.**

Irregularities and non-compliances may be detected not only by the actors of the organic control system, but also through tax and customs investigations or other authorities. This is a key lesson learned from the recent fraud case 'Gatto con gli stivali' which highlighted deficiencies in information exchange between different public authorities. **It is therefore recommended that the awareness of Member States be raised in this respect and that Member States are advised to explore whether and to what extent interfaces between the organic control system and customs or tax authorities could be established.**

14.3.3 Rules for trade with third countries

In the last two decades, organic supply and distribution chains have become increasingly globally organised and a large number of products sold on the EU market are imported. For farmers and consumers in the EU, it is important that organic products from third countries are produced in accordance with equal requirements and that the control systems guarantee the same level of assurance of conformity as within the EU. Furthermore, it is relevant that administrative procedures allow for timely delivery of the products at a reasonable cost.

The import regime was judged to be largely adequate in terms of achieving the global objectives of the Regulation but with some shortcomings in implementation, taking the following into account:

- Procedures of the import regime are generally adequate to assure conformity of organic products imported from third countries. However some shortcomings were identified with regard to the working resources required to assess the equivalence at the Commission and varying interpretation of equivalency by the control bodies. Furthermore, importers complain that procedures for issuing certificates of inspection implemented by some third country control bodies are slow and that they are paper-based;
- Control systems implemented in some third countries displayed shortcomings in particular as regards the application of specific preventive measures (e.g. training for operators) and risk-orientated controls. There are also concerns about the supervision of control bodies operating in third countries, in particular whether supervision is sufficient. Furthermore, stakeholders have indicated that procedures to follow up on irregularities are not always satisfactory; and
- Consumers have some reservations towards organic products not produced in their country. This attitude does however not differ substantially between organic products from other EU-countries and organic products from third countries.

Based on this judgement, the following recommendations are drawn that aim to ensure the adequacy and increase the effectiveness of the legislation with respect to achieving its objectives.

Considering that the control system on imports has to provide equivalent effectiveness with the EU rules, it is clear that many recommendations for the rules on controls (see Chapter 14.3.2.) are also applicable for the import rules. One example of this is risk-based approaches, which allow for an adequate response to situations where there is a higher risk of irregularities due to deficient knowledge of organic agriculture standards or techniques.

Administration of equivalence assessments

The import system applied in the EU does not require full compliance with EU rules but rather with equivalent rules and procedures for standards and control systems adapted to the specific framework. Ensuring equivalence is vital to guarantee fair competition with European producers

and to maintain organic integrity and subsequently consumer trust. The evaluation results revealed concerns about the administration of equivalence assessment because the growing number of recognised third countries and control bodies has led to an increasing administrative workload, in particular, for the Commission. **It is therefore recommended that bodies involved in the administration of the equivalence assessment have sufficient working capacities to deal with the growing number of recognised third countries and control bodies.**

The current system of recognised control bodies requires control bodies to issue a standard equivalent to the EU Regulation for their operations in third countries, which also needs to be submitted with the application for recognition. Furthermore, existing standards, once approved to be equivalent, need to be continuously refined and further developed in line with any changes to the EU Regulation. This in turn requires a continuous re-assessment of the equivalence. **It is therefore recommended that possibilities to simplify the recognition and assessment procedures (e.g. by separating the recognition of control bodies from the recognition of technical standards) are explored.**

Import authorisation system

The current system of import authorisations will be phased out by July 2014. Considering the administrative burden associated with this system and the challenges it has faced in achieving harmonised implementation, the disadvantages of this option are obvious and thus the phasing out of the import authorisation is justified. In view of the relatively high number of authorisations requested in 2013 and uncertainty as to whether the market will function properly, **it is however recommended that the supply development is monitored and adequate action taken if severe market failures are observed resulting from the phasing out of import authorisations.**

Strengthening supervision of control bodies

Supervision of control bodies plays a key role in ensuring an effective control system. It guarantees a level playing field among control bodies and helps to prevent possible unfair competition among operators which could result from varying interpretation of standards. Under the system of recognised control bodies, supervision is carried out by the Commission, competent authorities and accreditation bodies. The findings from the analysis of provisions revealed that there is no direct link between accreditation bodies and the Commission. **It is therefore recommended that consideration is given to establishing direct communication between accreditation bodies and the Commission especially with respect to complaints and irregularities.**

14.3.4 Rules on labelling

Labelling rules for organic products provide a legal basis for the use of terms referring to organic production and contribute to the functioning of the internal market. A key element of the labelling rules is the EU organic logo, which aims to increase recognition of organic products in all

EU countries and to provide consumers with confidence that organic food is produced entirely in line with the Regulation.

The analysis has shown that the concept of organic farming is largely understood by most consumers in the EU, taking the following into account:

- The majority of the respondents were familiar with the main issues of organic farming, such as growing without the use of synthetic chemicals, production by methods protecting the environment or grown without the use of genetically modified seeds; but
- A large share of consumers surveyed also agreed with ‘incorrect’ statements as being part of the legal definition, such as ‘needs to be produced on small farms’ and ‘needs to be produced locally’; and
- A quarter of respondents to the consumer survey recognise the new EU organic logo which was introduced in 2010 and became compulsory without exception in July 2012.

Based on this judgement, the following recommendations are made which aim to increase the effectiveness of the legislation with respect to achieving its objectives.

Consumers’ knowledge of organic farming

Consumers’ knowledge and understanding of the concept of organic farming is essential for consumers’ confidence and purchasing decisions. The analysis has shown that consumers’ knowledge is high regarding some basic principles of organic farming (such as the ban of synthetic chemicals) but a large proportion of consumers surveyed mistakenly believe that organic food ‘needs to be produced on small farms’ and ‘needs to be produced locally’ neither of which are requirements of the Regulation. Knowledge of the core concept of organic agriculture could be enhanced and confidence in the independent certification system could be strengthened through information campaigns. This will require joint efforts from the EU and Member States and the organic sector. **It is therefore recommended that there is continued support for well-targeted information and awareness raising campaigns which explain the common concept of organic farming, the certification system, the EU organic logo and the additional compulsory indications.**

Organic EU logo

The specific challenge for the EU organic logo is that various organic logos had already been established in many Member States prior to the introduction of the EU organic logo in 2010. Some countries had longstanding national logos (e.g. Estonia, France and Germany); some had primarily well-established private logos (e.g. United Kingdom). In other countries foreign national logos (the German Biosiegel) and the old EU logo were and still are important in the market (Italy and Poland). However, organic logos (apart from the EU logo) do not exist in all Member States. The new EU logo itself is not self-explanatory because it does not use any specific term referring to organic farming. Due to language differences, no single term could be found to suit all

Member States. Six months after it became fully mandatory, the new EU logo is recognised by about a quarter of consumers. Recognition is higher in France, where it has been clearly associated with the well-established French national AB logo. The logo has to be accompanied by the code number of the control body which includes BIO, ECO, EKO, ORG, ÖKO or ØKO, but consumers do not necessarily link this indication with the logo. **It is therefore recommended that options are explored to associate or connect terms referring to organic farming more closely with the logo.**

Additional compulsory indications such as the origin of raw materials (EU and non-EU agriculture) were introduced in order to increase the level of information and to reduce consumer confusion at the point of sale. According to the Regulation, products can be labelled with the name of the country if 98 % of all raw materials have been farmed only in one country. By allowing only 2 % of the ingredients to come from outside the country in question, very few products can be labelled with an indication of the country of origin. At the moment, the rules for organic food are in this respect stricter than provisions for some products with geographic indications (e.g. products can be labelled as Protected Geographical Indication, if among others the production and/or processing and/or preparation of a product takes place in the defined geographical area). **More flexibility concerning geographic indication may be useful to allow regional organic food to compete with other regional food in many markets.**

14.3.5 Simplified administration and management

As part of the European Action Plan for Organic Food and Farming (European Commission, 2004) the EU Council called on the Commission to review the legal framework regarding simplification and overall coherence. Simplification in the context of the CAP framework should have the goal of reducing red tape for both farmers and administrations by making rules more transparent, easier to understand and less burdensome to comply with (European Commission, 2005).

The analysis has shown that the current legislative framework for organic farming has significantly improved the transparency of the legislative measures applicable before 2009, but has not resulted in simplified administration and management, taking the following into account:

- Objectives, principles and production rules are now defined at the level of Council Regulation (EC) 834/2007. The structure of the new regulations, whereby the implementing rules are contained in separate Commission Regulations, runs the risk that not all relevant sections are considered by operators. There is a lack of clarity of some terms (e.g. region, irregularities and infringements, high quality).
- The approval process of permitted substances and practices has been clarified and criteria have been laid down, but there are concerns about the length of the approval process.
- The new Regulation and the replacement of derogations with exceptional rules have not overall resulted in reduced red tape and administration.

Based on this judgement, the following recommendations are made that aim to increase the effectiveness of the legislation with respect to achieving its objectives.

Transparency of the legal framework

In setting out objectives of the Regulation and the objectives and principles of organic production, Regulation (EC) 834/2007 has contributed to transparency of the legislative framework. However, the structure of the implementing rules (Regulation (EC) 889/2008) still requires an operator to consult a high number of articles when interpreting particular issues. There is also a lack of definition or clarity of some terms preventing a unified and harmonised EU wide interpretation. **It is therefore recommended that the Commission maintains a consolidated version of the whole regulatory framework for organic food and farming on its website, with a table of contents and an index, which links the objectives and principles more directly with the detailed rules.**

Simplification of the approval process of substances

The approval process of permitted substances has become more transparent through laying down criteria, but there are concerns about the length of time it takes for a decision to be granted and the ability of the procedure to cope with greater volume of applications. As yet, there has been no action on reviewing and potentially removing substances from the Annexes of Regulation (EC) 889/2008. The EU level process needs to focus on generic substances and strategic issues (including potential reduction of lists), building on the clear improvements that have been made with the technical advice experts through the EGTOP process. Since the approval of products is usually carried out by national authorities and control bodies, guidance to operators about products varies among Member States. **It is therefore recommended that ways are explored to improve both the approval process for products used in organic farming and the information available to operators in all Member States, including in those countries where no such information exists at present.**

14.4 Conclusions and recommendations in relation to the links between the EU legislation on organic farming and related EU policies

14.4.1 EU added value

Organic production operates not just within the context of wider EU agricultural, food and rural development policy, but also other EU policies. EU added value is judged by the existence of a European dimension for the policy in question, the coherence of legislation with key EU priorities, the achievement of both the global objectives of Regulation (EC) 834/2007 and the objectives of related EU policies, and the extent to which these achievements would not have been possible through national policies alone.

The analysis has shown that the organic farming legislation provides EU added value, notably by defining the common rules for the organic market, taking the following into account:

- There is particularly good coherence between the legislation and EU priorities for innovation, agricultural product quality, agri-environment, biodiversity, water quality, soil conservation, animal welfare as well as consumer protection and food labelling; and there is good coherence with issues related to the EU priorities for the internal market, climate change mitigation, sustainable production and consumption, food safety and competitiveness. Furthermore, there are some opportunities to improve coherence through improved linkages between the legislation and specific elements of EU priorities for sustainable use of water and market data collection.
- The legislation is effective in creating EU added value for environmental, climate mitigation and animal welfare priorities, and there is a generally good complementarity with EU funding instruments, particularly the CAP and the funds for research and information. The effectiveness could be improved by making clearer links between objectives, general principles and detailed rules, and by translating objectives for water quantitative management, energy use and habitat management into operational rules. The legislation is only moderately effective in achieving the EU priority of better regulation.
- The framework achieves clear added value at EU level going beyond what could be achieved by national policies alone. Little evidence is available to judge the allocation of responsibilities according to the principle of subsidiarity, and it was found that the views of competent authorities differ on this issue.

Based on this judgement, the following recommendations are made to improve the adequacy and effectiveness of the legislation in providing EU added value:

Supporting related EU policy priorities

The organic legislation is directly relevant to strategic and horizontal EU priorities and to key EU priorities and funding instruments for agriculture, rural development, environment, climate, animal welfare and consumers. The legislative framework is generally effective in supporting these EU priorities. There are, however, some gaps in the linkage to climate and environmental priorities related to sustainable use of water and energy, as well as the potential vulnerability of grazed semi-natural pastures and landscape features on High Nature Value (HNV) farmland to changes in management because these are not currently addressed by specific organic requirements. **Investigating possibilities to address the issues of the sustainable use of energy and water, biodiversity conservation and habitat management was already recommended above.**

There is generally good complementarity between the legislation and the related EU funding instruments. The organic legislation has improved the legal basis for payments provided from the CAP funds, especially the second pillar of the CAP, by the introduction of a strict control system.

There are opportunities to further improve complementarity between the legislation and EU rural development objectives for the competitiveness of small farms in HNV farming systems. These can be realised by providing advice to farmers through rural development policy on the available measures to support conversion of existing High Nature Value and semi-subsistence farms to organic production. **It is therefore recommended that RDP managing authorities are provided with information on the potential socio-economic and environmental benefits of organic farming, in particular in HNV farming systems and semi-subsistence farms, and guidance on using RDP measures to achieve this.**

14.4.2 Sustainable development of the organic farming sector

Sustainable development is a key EU priority. The stage of organic sector development varies considerably between Member States, from those in the early stages of development to well established, maturing markets. Development of the sector requires growth in production, processing and markets. The legislation is only one factor among many that influence this development. Others include commodity markets, support payments for conventional and organic farming and consumer demand for organic products. Sustainability is understood in terms of the inter-related concepts of economic, environmental and social sustainability.

The analysis has shown that the EU legislative framework for organic farming has contributed to the development of the organic farming sector, taking the following into account:

- Regulation (EC) 834/2007 has maintained the impetus created by the previous legislative framework to support a strong EU domestic and import market for organic food, principally through defining detailed rules for organic production and processing; unifying a previously fragmented policy area, and introducing a unified and strict control mechanism. Of note are many other factors beyond the EU legislative framework that influence the development of the organic sector (e.g. commodity markets, EU support policy for conventional and organic farming, national policies, and consumer demand for organic products).

Furthermore, the analysis has shown that the organic farming legislation has contributed to the economic and environmental sustainability of this development and that there is potential to improve the social sustainability of future development, taking into account:

- In general the Regulation provides a clear basis for the development of new organic businesses. However varying proportions of organic farmers leave the sector each year, and the development of processing facilities lags behind the needs of certain organic sub-sectors in some EU regions, in particular in mountain areas. This indicates a degree of economic vulnerability for some organic operators.
- Since the Regulation came into force the EU organic sector has continued to grow. Nevertheless, barriers to organic conversion continue to exist and therefore the provision of the regulatory basis by the organic legislative framework is an essential pre-condition for a

mix of measures to create a supportive policy environment for the actors in the sector (advice, training, information, land based organic payments, promotion, research).

- Neither the legislative framework nor the implementation of supporting policies appear to have been wholly effective in developing organic production for small and semi-subsistence low-intensity farms as well as small-scale processors who could benefit economically from organic conversion. Development of these parts of the sector has the potential to deliver associated socio-economic and environmental benefits in some parts of the EU.
- The Regulation has contributed to the environmental sustainability of the sector but this relies partly on the way in which Member States, private schemes, and individual farmers have implemented the rules, not just on the legislation itself. Some environmental benefits of organic farming, particularly for arable land, take effect over a considerable period of time, and thus growth in the sector will be most sustainable where there is stability of conversion rather than rapid turnover.
- Development of the organic sector has potential to bring socio-economic benefits and hence deliver public goods. Realising this potential requires clearer targeting of supportive EU policies, particularly those in RDPs, or considering group certification for small EU producers.

Based on this judgement, the following recommendations are made to improve the adequacy and effectiveness of the legislation in supporting economically, environmentally and socially sustainable development of the EU organic sector.

Economic sustainability of the development of the organic farming sector

Economic sustainability of organic development depends on many thousands of individual producers and processors creating and maintaining economically viable organic businesses on the basis of the rules. In general the legislation provides a clear basis for development of new organic businesses and also for key supporting policies which have an important role. Since the Regulation was introduced the EU organic sector continued to grow. However, there is significant variation between Member States in the proportion of organic farmers leaving the sector each year for reasons that are poorly understood. High turnover rates are not economically sustainable and reduce the efficiency of supporting policies and funding. **It is recommended that research covering all EU-27 Member States is carried out to examine the role of the production and control rules for organic operators when deciding to enter or leave the sector.**

Environmental sustainability of the development of the organic farming sector

The evidence of environmental sustainability of organic development reveals that this relies partly on the way in which Member States, private schemes, and individual farmers have implemented the rules and interpreted the organic concept, rather than being wholly attributable to the legislation. Future organic development will take place in the context of pressure to maintain net EU food production, and the generally lower yields of the organic sector compared to conventional production. Opportunities to improve environmental sustainability

include: exploiting the climate resilience of organic yields in extreme weather conditions; encouraging organic conversion of land that already has limited productive capacity; and closing the productivity gap between organic and conventional systems through improved nutrient management, research and innovation. **It is recommended that Member State agricultural and environmental authorities are provided with research-based information on the benefits of specific types of organic production for climate adaptation and resource protection.**

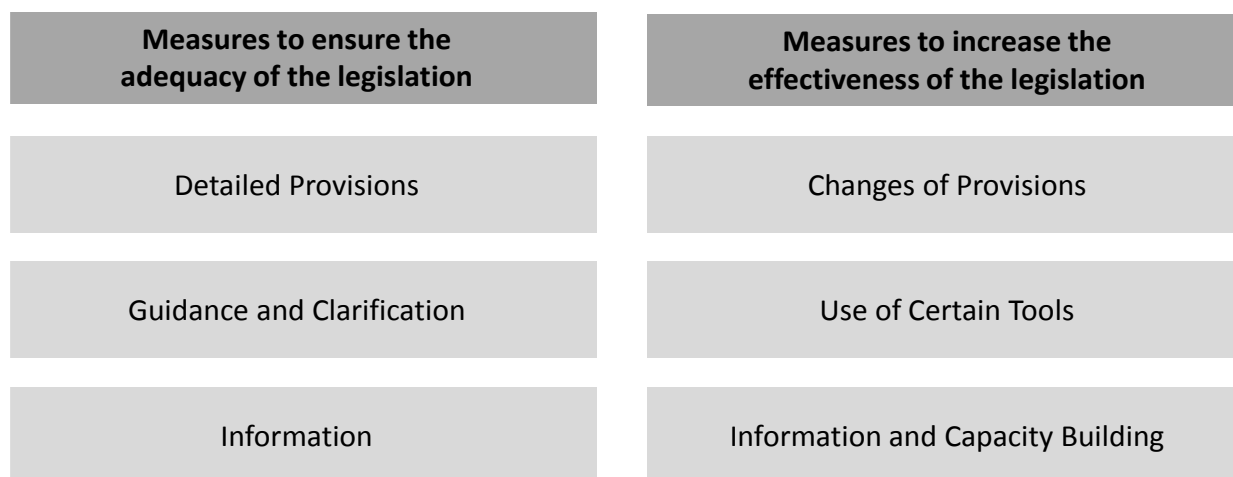
Social sustainability of the development of the organic farming sector

On the basis of the limited evidence available, it is clear that the development of the organic sector has the potential to bring social benefits, but effort will be needed to achieve socially sustainable sector development, especially among farming communities with little experience in organic requirements. In some cases conversion in the EU is hampered by the lack of an option for group certification which is available to producers outside the EU. **It is therefore recommended that the introduction of group certification for small producers is considered.**

14.5 Concluding remarks

The replies to the evaluation questions show that the EU legislation on organic farming generally provides a sound basis for a sustainable development of organic production in the European Union. However the conclusions and recommendations draw attention to a number of areas where the regulatory framework could be improved. The individual recommendations presented above can be grouped into six types of measure addressing two different fields of action: a) ensuring the adequacy of the legal provisions, and b) increasing the effectiveness of the legal provisions. The proposed measures are briefly described in the following paragraphs (see also Figure 14.1).

Figure 14.1: Overview of measures to ensure the adequacy and increase the effectiveness of the legislation



Source: Own illustration.

Measures to ensure the adequacy of the legislation

The first field of action encompasses three measures (Detailed Provisions, Guidance and Clarification, Information) to ensure the adequacy of the legislation, i.e. that the regulated state is sufficient in relation to the objective laid down in the Regulation. Very few areas have been identified, where **more detailed rules** should be considered at EU or Member State level. This refers mainly to provisions with respect to:

- organic pullet rearing and hatchery at EU level which should be followed by a phasing out of the exceptional rule on the use of part-organic pullets;
- sustainable use of energy and water;
- protection and management of semi-natural habitats and features for biodiversity.

In many cases the rules themselves are adequate but there is a lack of a harmonised enforcement in Member States. For this reason, it is recommended that **more guidance and clarification** is provided to

- the organic industry on the legal situation with regard to how to communicate an organic claim on non-food products closely linked to organic agriculture, when they are produced according to Regulation (EC) 834/2007;
- the organic industry and Member State authorities on how the organic mass catering sector can be regulated through national or private provisions;
- the organic industry on what constitutes legitimate organic claims on non-food products (such as textiles and cosmetics) and whether this provides opportunities for an organic claim and/or logo to be used on such products;
- control bodies and Member State authorities on the legal status of the objectives and principles of organic production, how specific rules link to the objectives of organic production and clarification of ambiguous terms within them (e.g. sustainable use of natural resources, high animal welfare).

Furthermore, there are areas where more guidance or harmonised enforcement is difficult because sufficient information is not available. For this reason, it is suggested that **more information** is provided to support the Commission and Member State authorities in streamlining the rules and monitoring their implementation, including

- improving the collection of statistical data on the organic market and costs of production;
- supporting further research and knowledge exchange about the development of organic high protein feed supplies to monitor the development of supply and demand (supply balance) of organic high protein feeds supplies in Europe;
- harmonising and improving the seed database through regular updates of lists of available species and varieties and exchange of information between countries to broaden the market.

Measures to increase the effectiveness of the legislation

The second field of action includes three measures (Changes of Provisions, Use of Certain Tools, Information and Capacity Building). It encompasses rules that are judged to be adequate but whose desired impact could be increased, i.e. the extent to which objectives pursued by an intervention are achieved.

This could be realised by **adaptation of the provisions** as regards

- a shift from annual controls to a risk-based control system;
- direct communication between accreditation bodies and the Commission especially with respect to complaints and irregularities;
- group certification of small producers;
- additional indications associated more closely with the EU organic logo (such as common terms referring to organic farming);
- more flexible rules with respect to the indication of the place of origin of agricultural raw material;
- simplified recognition and assessment procedures (e.g. by separating the recognition of control bodies from the recognition of technical standards);

or the use of specific **procedures and tools** such as

- well-targeted, output-based criteria for the enforcement and monitoring of animal welfare outcomes that can be used by operators in self-assessment and also as part of control visits;
- monitoring of supply development to observe the effects of the phasing out of import authorisations;

or by providing **more information**, including

- improving the Organic Farming Information System (OFIS) and enlarging its application to other actors of the control system where appropriate;
- supporting or launching well-targeted information and awareness raising campaigns which explain the common concept of organic farming, the certification system, the EU organic logo and the additional compulsory indications;
- publishing a consolidated version of the whole regulatory framework for organic food and farming on the internet, including a table of contents and an index, which links the objectives and principles more clearly with the detailed rules;
- improving the information available on approved products used in organic farming to operators in all Member States, including in those countries where no such information exists at present;

- providing RDP managing authorities with information on the potential socio-economic and environmental benefits of organic farming, in particular in the High Nature Value farming systems and semi-subsistence farms, and guidance on using RDP measures to achieve this;
- carrying out research to examine the role of the production and control rules for organic operators when deciding to enter or leave the sector;
- providing Member State agricultural and environmental authorities with research-based information on the benefits of specific types of organic production for climate adaptation and resource protection;

and **capacity building**, including

- increasing at EU level the knowledge, skills and capabilities of the competent authorities through specific training;
- establishing an institutional interface between the organic control system and customs or tax authorities bearing in mind that irregularities and non-compliances may not only be detected by the actors of the organic control system but also by other activities;
- ensuring that bodies involved in the administration of the equivalence assessment have sufficient working capacity to deal with the growing number of recognised third countries and control bodies.

These measures may contribute to ensuring the adequacy and increasing the effectiveness of the Regulation and therewith may improve the basis for a sustainable development of the organic farming sector in the future. When revising the EU legislation on organic farming, it is worth bearing in mind that over the past 20 years, stakeholders have gained a large body of experience on practical implementation of the legislation. Further development of the legislation should take this experience into account.