

Commission to practice what it preaches

An ORGAP (Evaluation of the European Action Plan for Organic Food and Farming) research project paper questions whether the EU Commission is line with its own Principles of good governance regarding the revision process of the EU Organic Regulation

The draft replacement proposal to Council Regulation (EEC) 2092/91, also called the EU Organic Regulation, provoked substantial criticism from the German organic sector. The German farmers' union (Deutscher Bauernverband or DBV) referred to the 'massive undermining of consumer protection', while the German Federation of the Organic Food Industry (Bund Okologische Lebensmittelwirtschaft or BOLW) rejected the draft outright. The broad rejection was confirmed at a workshop held by the EU ORGAP project on 30 March, 2006, in Berlin, which brought together leading representatives of the German organic sector.

The Evaluation of the European Action Plan for Organic Food and Farming (ORGAP) research project is unusually, specifically mentioned in the draft EU Organic Regulation. The results of the project are expected to be drawn upon at a later stage to draft the implementation provisions for the regulation. The key objective of the workshop was to develop indicators for evaluating the European Action Plan for Organic Farming. Reviewing conflicts and synergies between national and EU organic policies, the workshop gave room for debate on the revision process. The workshop which took place in nine European countries followed a format provided by the project partners, University of Wales, Aberystwyth and University of

Southern Denmark. Below is a summary of a paper produced on the request of the participants based on the debate at the ORGAP workshop.

Principles of good governance

In 2001 the EU Commission, prompted by its perception of a 'disconnection' between the Union and its citizens, drafted a set of governance principles published in a white paper on 'European Governance' (EC 2001). The objective was to 'open up policy-making to make it more inclusive and accountable.' Involvement of all actors and stakeholders (see box below) in the policy-making process (participation) is an important aspect of these principles. Consequently, as a matter of principle, before the EU takes action, it should always clarify the issue of subsidiarity, *i.e.* whether any action is necessary at all and, where it is, whether it should be taken at the EU level.

The five 'Principles of Good Governance' of the EU are:

- *Openness*: institutions should work in a more open, transparent and ac-

cessible manner.

- *Participation*: improving participation, from policy development to the implementation of political programmes.
- *Accountability*: clear allocation of roles and responsibilities.
- *Effectiveness*: clear objectives, evaluation and subsidiarity.
- *Coherence*: consistency within strategic programmes and between the work of institutions (local, regional, national and supranational).

Reviewing the product and process of redrafting the EU Organic Regulation against the EU principles of governance, it appears that some of the principles have been adhered to, *e.g.* swift implementation [projected within half a year]; flexibility for adaptation to special regional and local circumstances; and adoption of a standard form of European labelling to safeguard the effectiveness of the internal organic market and to facilitate trade in organic products. However, in terms of the principles of subsidiarity and participation, *i.e.* involvement of stakeholders from the organic sector in the policy-making process, the European Commission has failed to conform to their own principles.

While the formulation of the European Action Plan took place on the basis of a relatively broad consultation process, stakeholders have barely had any involvement in the formulation of the revision proposal

Eurojargon

The Eurojargon definition of 'stakeholder' is 'any person or organisation with an interest in or affected by EU legislation and policy-making. The European Commission makes a point of consulting as wide a range of stakeholders as possible before proposing new legislation or new policy initiatives.'

Eurojargon (2006).

as reflected in the vehement criticism confronting the EU Commission today. Furthermore the revision proposal, in giving the Commission additional sway in the future regarding the implementation of the regulation, further limits opportunities for participation, even though the development of implementation provisions is of crucial importance to everyday practice.

The subsidiarity principle and the EU Organic Regulation

Throughout the existence of the European Union and its precursors, the subsidiarity principle has, implicitly or explicitly, been contained in its statutes. This states that decisions should be taken at the nearest possible level to the citizens. Thus, the fundamental question before any political action is taken at the Community level is whether such intervention is justified at all in the light of the scope for national, regional or local action. The subsidiarity principle thus obliges the EU both to act and to exercise self-restraint, thereby imposing a double duty on decision-makers (Andersen and Woyke 2003).

The existing EU Organic Regulation applies in all Member States. In other fields of organic agricultural policy, the Commission limits itself to setting out a framework, allowing the Member States broad scope for their own activities. Individual Member States and regions set out their own national or regional action plans to promote organic agriculture and as a result have become important actors. On the basis of the success of some of these action plans, enthusiasm was expressed for a European Action Plan as it would supplement and integrate activities taking place at national level.

According to the subsidiarity principle, the Member States are responsible for the interpretation and enforce-

ment of particular responsibilities, such as inspections, under the EU Organic Regulation. As a result of differing interpretations of the EU Organic Regulation, this division of responsibilities can lead to discrepancies. Subsidiarity in the examples mentioned can lead to results that might be seen as distortions of competition. The question in the current discussions seems to be whether reducing the subsidiarity principle is the right response to difficulties of market access. It could also be argued that higher standards have a role in some countries and this provides the potential for evolution of standards at the EU level.

Stakeholder involvement and the EU Organic Regulation

Since 1991 development of the existing EU Organic Regulation has involved a combination of state action and non-governmental initiatives. Although there was criticism on details, the organic sector and the policymakers had nevertheless entered into a constructive process of cooperation which was accepted by both sides. The proposed revision raises the question whether the Commission is living up to its own standard of 'joint endeavour' between policymakers and sector interests, or whether a trend towards decoupling the organic agriculture movement is in progress.

Clearly, one potentially far-reaching change in the cooperation between the EU Commission and the sector is the downgrading of the existing Annexes in the EU Organic Regulation into implementation provisions that will be determined by the Commission using the Management Committee procedure. The Annexes regulate details, which practically define what constitute organic agriculture organic. The change reduces the sector's po-

tential influence on their specific contents. The German sector have commented on these changes in drastic terms, feeling that the sector is being disenfranchised, 'having its child taken away' and that the ground is being prepared for subordination to state control. Some parties believe the EU Commission is pursuing objectives that are not in line with the goals of the European Action Plan for Organic Food and Farming ('sustainable growth of the organic sector') and the proposed revision is the result of successful lobbying from the conventional food trade.

Organic sector involvement in official feed and food controls (Regulation EC 882/2004)

There is general anxiety within the organic sector about the integration of organic agriculture into the general food and feed control regime Regulation (EC) 882/2004. It is not completely clear yet how the organic sector is to be brought under this regulation in practice, but one model is to integrate organic certification into the state feed and food control system. This would mean that current private-sector certification would no longer continue. However, provision is made in Article 63 (2) taking account of the specific character of the organic agriculture regulations, 'specific measures to be adopted in accordance with the procedure referred to in Article 62 (3) may provide for the necessary derogations from and adjustments to the rules laid down in the regulation,' thus possibility of establishing a special regime for organic agriculture.

Compulsory EU-ORGANIC Labelling

The new draft regulation proposes making 'the use of a simple standardised text EU-ORGANIC on labels

compulsory' on all organic product originating within the European Community. This proposal can be traced back to discussion made at the Copenhagen conference in 2001. Interestingly, whilst there has been a storm of protest against diminishing the value of existing marks and logos from organic associations, the blatant discrimination between products from the EU and equivalent imported organic products was seldom mentioned in the debate and there is no protest on this point.

Introduction of new compulsory labelling would also render the German Biosiegel, considered a prime example of a positive initiative to invigorate the organic market (EC 2004), superfluous in substance. Nevertheless, the Biosiegel, which has become well established, cannot be expected to disappear.

It could be argued that a standard labelling system with an EU-ORGANIC mark would make trade somewhat easier. But it is not certain whether the impact in terms of broadening the total market would necessarily mirror the positive German experience. Based on interim findings concerning the German Biosiegel becoming 'emotionally charged' as a brand, and entering into direct competition with private label owners, the paper emphasises that attention should be given to ensure that the text label is used as an objective, unemotional form of labelling. The freedom to develop private organic standards and organic marks which exceed the legal minimum standard should not be restricted.

Still to come

According to the paper, the Austrian government as Council President has backed down from the original plan of adopting the new proposal during its

Council Presidency (end of June 2006). The plan is now to hold two further meetings of the Council Working Group by the end of June to discuss the revised draft (particularly principles and ground rules). This means that further work is possible in the second half of the year under the Finnish Presidency.

Whilst flawed the Commission's proposal has some positive aspects including developments resulting from the protests, e.g. getting the sector to work together to move organic agriculture forwards. The Commission has already taken account of some of the suggestions from the sector in an internally circulated revised draft. Moreover, there is evidence the Commission and the Council will take more time over the drafting, increasing the opportunity for stakeholder participation.

Lastly, the paper pointed to Australia and Canada as examples of countries where the state is much more restrained and which rely on private-sector solutions. Also Europe should not shut its eyes to the international trend towards of increasing subsidiarity in the organic sector. ■

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