

The following contribution is made by Lizzie Melby Jespersen and Antonio Compagnoni resulting from their work within the EU research project “OrAqua”. The overall vision of “OrAqua” has been to facilitate economic growth of the organic aquaculture sector in Europe, supported by science-based regulations and in line with organic principles and consumer confidence.

THE EUROPEAN ORGANIC FARMING CONTROL & CERTIFICATION SYSTEM

Background

The first European regulation on organic farming (Reg. n° 2092/91) was adopted in 1991. It provided a legal definition of organic farming, production rules for organic plant production and defined control and labelling requirements in order to protect consumers and organic farmers against misleading organic claims. In 1999 this regulation was amended by Regulation (EEC) No 1804/1999 setting up rules for livestock production and prohibition of GMO. In June 2004 the Commission launched the European Action Plan for Organic Food and Farming [COM(2004)415 final], with which the Commission intended to assess the situation and lay down the basis for policy development, thereby providing an overall strategic vision for the contribution of organic farming to the Common Agricultural Policy. One of the recommendations in the action plan was to improve and reinforce the community's organic farming standards, among other things by completing the standards for areas not yet covered, such as aquaculture. This led to the revision of the organic regulation and adoption of a new Council Regulation (EC) n° 834/2007 on organic production and labelling of organic products and repealing regulation (EEC) n° 2092/91. In 2008 the Council regulation was supplemented by the Commission Regulations (EC) n° 889/2008 and n° 1235/2008 laying down detailed rules for the implementation of Council Regulation (EC) n° 834/2007. Finally, in 2009 the organic aquaculture rules were introduced by the adoption of the Commission Regulation (EC) n° 710/2009 laying down detailed rules on organic aquaculture animal and seaweed production. The new organic aquaculture regulation came into force on January 2010.

With the Commission Decision of 3 June 2009 (2009/427/EC) the European Commission established an independent Expert Group for Technical Advice on Organic Production (EGTOP) to assist the Commission by providing technical advice as regards evaluation of products, substances and techniques which can be used in organic production, improving existing rules or developing new production rules and enhancing exchange of experience and good practices in the field of organic production. The group delivers independent expert advice, based on mandates from the Commission which, in turn, are based on requests forwarded to the Commission by the Member States. Until now EGTOP has drafted reports based on three mandates on organic aquaculture http://ec.europa.eu/agriculture/organic/eu-policy/expert-advice/documents/final-reports_en. These have been dealing with the use of non-organic juveniles, permitted feed and feed additives (Aquaculture report A in 2013); stocking density, recirculation aquaculture systems, reproduction of shrimps, use of hormones, rules for production of juveniles and their feed, evaluation of substances for cleaning and disinfection (Aquaculture report B in 2014); dietary requirements of early life stages of shrimps and rules for production of zooplankton (Aquaculture report C in 2016).

The EU Member States are not allowed to apply stricter national regulation (specifically for the organic sector) than the rules set out in the EU organic regulation, but they are allowed to develop and apply national regulation in fields not (yet) covered by the EU organic regulation,

e.g. processing, catering, climate change mitigation or social aspects, as long as such requirements do not violate general EU regulation within these areas. Private national or international organic standards can be applied in the EU Member States besides the EU organic regulation. The private standards are usually owned by organic producer organizations, (e.g. Bioland or Naturland in Germany, KRAV in Sweden, Soil Association in the UK or Demeter worldwide). As a minimum, the private organic standards shall fulfil the EU organic regulation but, contrary to the national regulations, the private standards may apply extra, as well as stricter rules than the EU organic regulation, also within fields that the EU organic regulation already covers. This means that organic aquaculture farmers may need to be certified not only according to the EU organic regulation but also to one or more private organic standards, depending on the market requirements.

Some private standards/logo owners (e.g. Naturland and Soil Association) maintain the final certification decision, and hereby the use of their logo, although they generally outsource the inspection to several accredited control bodies. The inspectors of the control bodies are trained by the private standards/logo owner concerning the extra requirements of the private standards to be controlled. Other private standards/logos owners (e.g. Krav and BioSuisse) delegate both inspection and certification to the accredited control bodies, maintaining just a sort of guidance over interpretation of the standards implementation.

For some years, most of the private organic standards owners and some private organic certifiers in Europe have been collaborating within the framework of LOA (Leading Organic Alliance), in partnership with IFOAM Organics International Best Practice Community, on establishing equivalence processes and developing common standards, especially in non-regulated areas, such as social responsibility, packaging etc. Current members of this initiative are: BioAustria (AU), BioForum (BE), Bioland (DE), BioSuisse (CH), Debio (NO), Ecovalia (ES), Eko (NL), Iacea (IT), Krav (SE), Naturland (DE) and Soil Association (UK). As regards the aquaculture standards most of the European private standards and logo owners are now converging their standards towards the EU organic regulation (apart from Naturland).

It is worth to mention that the current status of the EU Organic Regulation is an ongoing process of review, which was started by the Commission in late 2011 with a proposal for a new organic regulation that, following the recently implemented Lisbon Treaty rules, needs to be agreed by the so-called Trilogue (Parliament, Council and Commission).

Organic farming: Control and certification systems in the EU

The certification and control system in the European regulation on organic farming, including organic aquaculture, is quite complicated and differs between Member States, which may apply one of the following three types of certification systems:

- A. System of private approved inspection bodies.
- B. System of (a) designated public inspection authority(ies).
- C. Mixed system with designated public inspection authority(ies) and approved private inspection bodies.

At national level the certification system consists of the following actors: competent authority(ies), accreditation body(ies), control authority(ies), private control body(ies) and private standards owner(s) (see Fig. 1).

In 2015, among the 28 Member State, 19 countries were applying the system A, 6 countries (i.e. Denmark, Estonia, Finland, Lithuania, Malta and the Netherlands) were applying the system B and 3 countries (i.e. Luxembourg, Portugal and Spain) were applying the system C. The number of private certification bodies in each country was ranging from 2 (Cyprus, Latvia

and Slovakia) up to more than 10 (Bulgaria, Germany, Greece, Italy, Portugal, Romania and Spain). At the EU level the organic certification system is supervised by the European Commission and at the Member State level by the national or regional authorities.

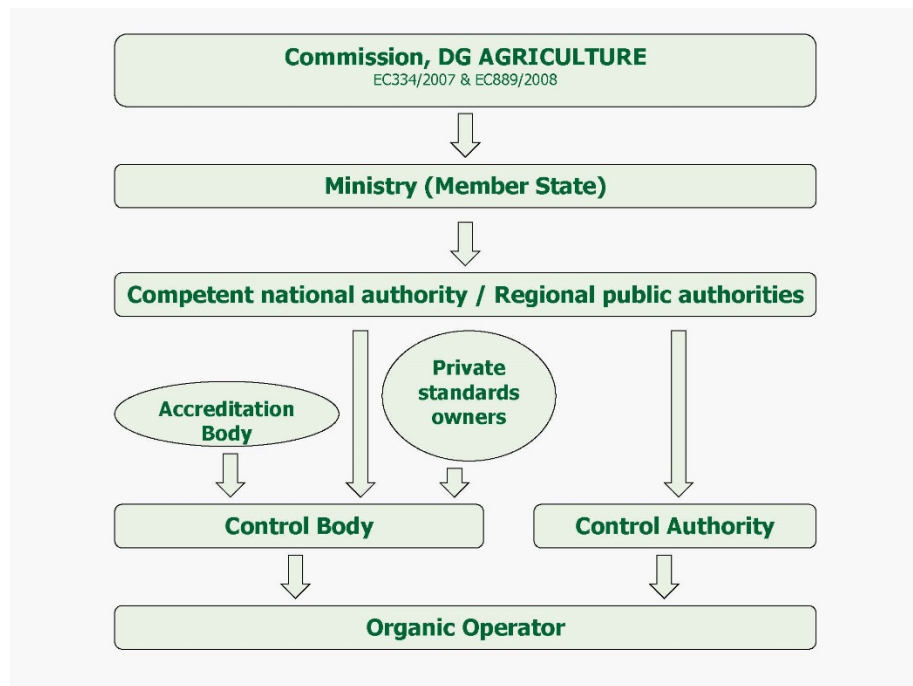


Fig. 1: Overview of actors involved in the organic certification chain (Jespersen, 2011)

The supervision of the organic certification system depends on the national/federal government or on the regional/provincial governments (e.g. Germany and Italy). All private control bodies need to be approved by the national or regional competent authorities. They also need to be accredited by the national accreditation authority, in accordance with ISO/IEC standard 17065:2012 Conformity assessment – Requirements for bodies certifying products, processes and services. According to Reg. (EC) n° 834/2007, public control authorities do not need such an accreditation.

This complex certification and control system may have had a negative impact on the free exchange of organic products in Europe. Furthermore, the related accreditation and certification costs may be quite expensive, especially where the market requires certification according to one or more private standards in addition to the EU organic regulation certification. There are no figures available on the cost of certification of organic aquaculture in the EU member states, but according to a case study carried out in 2010, in the framework of the CERTCOST project, the hourly rate for control of organic farms varied between € 8/h in the Czech Republic and € 133/h in Germany (Jespersen, 2011). In the case of organic aquaculture, with small numbers of operators and a high demand of specialisation of the organic inspectors, the cost of control and certification is most probably higher than the average of other organic production systems.

Import from Third Countries

Organic imports from third countries represent an important part of organic products consumed in most EU member states. This is true also for organic aquaculture products.

Before 2006, according to the previous import regulation, organic products could be imported from a limited list of Equivalent Third Countries. The "equivalent" status could be attributed to those countries whose organic production systems comply with the principles and production rules set out in the EU organic regulation and whose control measures are of equivalent effectiveness to those laid down in the EU organic regulation. Organic food products could also be imported on the basis of import authorisations released, by the Member State competent authority, according to procedures and timing unequal between the various EU Member States, thus creating uneven import conditions. In fact most organic food products were imported based on such import authorisations.

In 2006 the import regime was changed to simplify procedures by the adoption of Council Regulation (EC) n° 1991/2006. The import certificates issued by the competent authorities in the Member States should gradually be phased out and the new import system was based on the establishment of a Third Countries List with equivalent production and inspection procedures, as well as a list of inspection bodies and authorities competent to carry out inspections and issue certificates in third countries.

With the Council Regulation (EC) n° 834/2007 and the Commission Regulation (EC) n° 1235/2008, the framework conditions for imports into the EU have changed considerably. The present import system keeps the Third Countries List as a major part of the system, and the list now includes products categories from 12 approved countries: Argentina, Australia, Canada, Costa Rica, India, Israel, Japan, New Zealand, Republic of Korea, Switzerland, Tunisia, the United States of America. However, the import authorisations by the Member States is replaced by two lists with approved control bodies operating in third countries (see Commission Regulation (EU) n° 508/2012).

Currently, the following two options are provided by the regulation to import organic products from third countries to EU:

1. The EU Regulation on Organic Agriculture is applied in the third country exactly as in the EU member states, i.e. the products are "compliant" with Council Regulation (EC) n° 834/2007 and Commission Regulation (EC) n° 889/2008. The European Commission will establish a list of recognised "compliant" control bodies authorised to carry out inspections and issue certificates in third countries.
2. The production standards and control measures in the third country are "equivalent" to Council Regulation (EC) n° 834/2007 and Commission Regulation (EC) n° 889/2008. In this case, the EU recognises imports as equivalent if:
 - a) the third country in question has been included in the European Commission's list of recognised third countries (Council Regulation (EC) n° 834/2007, art. 33.2), or
 - b) the control body issuing the certificate is listed by the European Commission as an "equivalent" control body (Council Regulation (EC) n° 834/2007, art. 33.3).

The option n° 1, based on the "compliant" concept, has not yet been implemented by the EU Commission. While the option n° 2, based on the "equivalent" concept has been implemented and is currently widely used. However, it is worth to mention that in the on-going process of revision of the EU organic regulation the imports system is the subject of a discussion, whose outcome could lead to the reversal of the current situation.

The EU Organic Control System: some critical points

The organic aquaculture sector is the most recent organic production system to be regulated in the EU and its development since 2010, when the EU regulation on aquaculture went into force, has been rather limited by its small numbers of certified operators, market actors and

volumes. Therefore, the organic aquaculture sector seems to be more sensitive to the burdens and inefficiencies of the control system than the other organic production sectors.

Based on the stakeholder feedbacks and the relevant literature reviewed (e.g. results of CERTCOST project), five critical issues are addressed hereinafter.

Harmonise supervision of the certification system, approval of control bodies and data collection

Different terms and definitions used in the EU organic regulation as well as types of non-compliances and appropriate sanctions to be given at different levels of non-compliances are needed at the EU level to harmonise interpretation of the EU organic legislation and the control system. Such a harmonisation initiative is still lacking and these aspects are not covered in the new EU organic regulation proposal.

Further it is recommended to publish annual supervision reports at the EU level based on a harmonised data collection system that allows comparison of the implementation of the organic regulation and control system in all EU Member states. There is still a need for more transparency in the organic regulation implementation and control system in the EU. However, the Commission has increased the number of Audits in EU Member States as well as in Third countries, and the overview audit reports can contribute with some information. In the period 2012-2014 the Food and Veterinary Office under DG SANTE has carried out audits in 14 EU Member States (DG SANTE, 2015). The new EU organic regulation does not directly address this recommendation but empowers the Commission to adopt delegated acts or implementing acts to deal with such matters.

It is also recommended to harmonise the implementation of the requirements and procedures for approval of control bodies as well as the system for monitoring and supervision of control bodies in the EU Member states.

Though the private control bodies need to be accredited according to ISO/IEC 17065:2012 (ISO, 2012), the effect of this mandatory accreditation on harmonised procedures still seems to be limited. A concerted action of the accreditation bodies involved, e.g. by drawing up codes of Good Practice as encouraged by the EU Commission, could improve this situation.

Further development of the use of risk based inspection systems

The CERTCOST project recommends to develop further the use of risk based inspection systems by supporting development of quantitative systems based on a weighted approach to the risk of occurrence of non-compliances in relation to the impact severity on the market and on consumer trust. This recommendation has been taken up by the Commission in the proposal for a new EU organic regulation, which intends to reinforce the risk-based approach to controls by removing the requirement for mandatory annual verification of compliance of all operators, so that operators with a low risk profile may be less frequently inspected physically, while higher risk operators will be more closely targeted. However, the Parliament, the Council and the organic movement (the IFOAM EU group) are all in favour of an annual physical inspection of all producers for the sake of consumer confidence at the same time recommending to enhance the risk based control approach.

The CERTCOS project also states that there is a need for providing common basic requirements for risk-based inspection systems at the European level to improve and harmonise the organic

control system, but the project recommends to leave the implementation details to the control bodies.

Strengthen the institutional basis of the organic farming certification system at different levels

The CERTCOST project recommends to keep the possibility to have the three different control and certification systems (i.e. private control bodies, public control authorities and a mixture of both. Opposite to this the Commission intends to move all control requirements from the EU organic regulation to the horizontal regulation as a single legislative text under the Commission proposal for a Regulation on official control and other official activities in food and feed, which is mainly dealing with food safety. This regulation is product oriented instead of process oriented as organic farming is, for which reason such a change has strongly been opposed by the organic movement as well as the Council and European Parliament.

The project also recommends to investigate if the collaboration between the units of the DGs of the EU Commission involved in the administration of the organic certification system could be improved. At the same time, it should be checked whether the resources allocated to these units are sufficient to adequately perform their duties. ,

Likewise it should be investigated if the distribution of tasks between the different public authorities and the accreditation bodies within the Member States leaves room for improvement. It would also be relevant to involve stakeholders more directly, , e.g. by providing a platform for knowledge exchange between control bodies, other stakeholders and competent authorities.

Increase transparency and information provision to organic operators

The CERCOST project recommends to increase the transparency and enhance the information provision on control requirements to organic operators, specifically by implementation of web tutorials in national languages and by further development of the existing EU websites for organic production, i.e. OFIS, http://ec.europa.eu/agriculture/ofis_public/ and the EU organic website, http://ec.europa.eu/agriculture/organic/index_en .

Besides, the control bodies are recommended to increase transparency by publishing the price lists for their services on their web site in a way that makes comparison of fees possible for the operators.

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Invest in the organic control and certification knowledge system

The CERTCOST project recommends to invest in the knowledge system of the organic certification system, and in particular provide European forums for regular and structured information exchange on implementation issues between stakeholders involved in all member states as well as training opportunities targeted at the various actor groups dealing with the implementation of the organic certification system. Besides there should be introduced minimum training levels for organic inspectors, preferably independently of the control bodies they are working for.

Some of the above recommendations of the CertCost project were taken into account by the EU Commission that, at least partly, included them in the

COMMISSION IMPLEMENTING REGULATION (EU) No 392/2013 of 29 April 2013, amending Regulation (EC) No 889/2008 as regards the control system for organic production - specifically in:

Article 92 Exchange of information between control authorities, control bodies and competent authorities;

Article 92a Exchange of information between different Member States and the Commission;

Article 92b Publication of information

Article 92c Supervisory activities relating to control bodies

Article 92d Catalogue of measures in case of irregularities and infringements

Article 92e Annual inspection of control bodies

Article 92f Organic data in the multi-annual national control plan and annual report

This Regulation has certainly given some guidance and clearer direction to some of the issues pointed out above, but a lot more still needs to be done in order to solve most of the critical points of the EU organic control system.

Organic Control system

The EU Commission proposal does not include provision for the current organic control system, it only includes a chapter on “organic certification”. Instead it is intended to move all the control requirements from the organic regulation to the horizontal legislation on official controls for food and feed which has been also under review and expected to be published at the beginning of 2017 (Currently such official controls are covered by Regulation (EC) No 882/2004) . The Commission proposal also foresees an extension of the control activities in the whole organic chain, including all retailers without exceptions. It abandons a mandatory annual on-site inspection requirement for all operators, and it allows groups of operators (smallholders) in the EU to be certified as such (currently this is only allowed in developing Third Countries).

The position of the Council is to include control requirements in the organic regulation. Member states may exempt some categories of retailers from the control and annual on-site inspection shall continue to be mandatory. However, Member States may decide to exclude low risk operators from this requirement, allowing a maximum 30-month period between two inspections. Group certification is supported under certain conditions.

The Position of the European Parliament is to provide reinsertion and clarification of the control requirements in the organic regulation, and some categories of retailers should be exempted from control. Besides, introduction of certification for organic mass catering at the EU level is proposed. Mandatory annual inspection for all operators should be maintained, although Member states may decide to exempt operators selling small amounts of products from the control. Group certification under certain conditions is also supported.

The position of IFOAM EU is to support reinsertion and clarification of the control requirements in the organic regulation. Mandatory annual on-site inspection should be maintained but retailers selling exclusively pre-packaged organic products should be exempted from control. Group certification under certain conditions is supported.

1. Agreements reached – so far – by the trilogue

The control system was mainly discussed under the Dutch Presidency in the first semester of 2016. At the moment, the main changes for the organic control system might be:

- The annual inspection will be the general rule, the maximum period between two inspections will be 12 months. A derogation prolonging the period up to 24 months will be possible for low-risk operators
- The inspection will have to be mainly unannounced

The sector does not agree with these two possible changes.

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