FINAL REPORT OF AN AUDIT

CARRIED OUT IN

GERMANY

FROM 10 TO 21 JUNE 2013

IN ORDER TO EVALUATE THE CONTROL SYSTEM FOR ORGANIC PRODUCTION AND LABELLING OF ORGANIC PRODUCTS

In response to information provided by the Competent Authority, any factual error noted in the draft report has been corrected; any clarification appears in the form of a footnote.
Executive Summary

This report describes the outcome of a Food and Veterinary Office (FVO) audit in Germany, carried out from 10 to 21 June 2013, under the provisions of Regulation (EC) No 882/2004 on official food and feed controls.

The objective of the audit was to evaluate the controls on organic production and labelling of organic products.

Overall a good system for the control of organic production and labelling of organic products is implemented. National legislation is in place and relevant competent authorities (CAs) are designated.

In some Länder domestic legislation assigns the power to grant various derogations and authorisations to control bodies (CBs) operating therein, which is not in compliance with relevant EU requirements.

The system of supervision of the CBs is well structured. It is based on office and witness audits carried out independently by the CAs of each Land and the Länder working group on organic farming (LÖK) plays an important role in terms of coordination. However, this system has not been sufficient to ensure that all necessary conditions are always satisfied by all CBs.

Controls of operators carried out by the CBs are, overall, satisfactory and based on risk criteria. About 20% of operators are subject to additional inspections (mostly unannounced). Approximately 5% of operators are sampled and the testing of the samples is performed by accredited laboratories. Moreover, a comprehensive list of commercial names of off-farm inputs, such as plant protections products and fertilisers, is publicly available and represents an important tool for CBs' inspectors during their controls.

The system for imports of organic products provides sufficient guarantees that consignments are verified in accordance with EU provisions.

A catalogue of measures in case of irregularities and infringements has been adopted by a national law in 2012 and harmonising the assessment of non-compliances and the subsequent follow-up measures taken by the CBs.

In the two Länder visited, the CAs do not carry out planned market control on labelling and traceability in those operators which are not subject to controls carried out by CBs.

The report makes a number of recommendations to the CAs, aimed at rectifying the shortcomings identified and enhancing the implementation of control measures.
# Table of Contents

1 **INTRODUCTION** .......................................................................................................................... 1
2 **OBJECTIVES** ................................................................................................................................. 1
3 **LEGAL BASIS** ................................................................................................................................. 2
4 **BACKGROUND** ............................................................................................................................... 2
5 **FINDINGS AND CONCLUSIONS** ..................................................................................................... 2
   5.1 **RELEVANT NATIONAL LEGISLATION AND PROVISIONS** ....................................................... 2
   5.2 **ORGANISATION AND IMPLEMENTATION OF CONTROLS** .................................................... 3
      5.2.1 **COMPETENT AUTHORITIES AND CONTROL BODIES** ................................................. 3
      5.2.2 **CONTROLS ON ORGANIC PRODUCTION** ................................................................. 7
      5.2.3 **CONTROL ON LABELLING AND TRACEABILITY** .................................................... 10
      5.2.4 **EXCEPTIONAL PRODUCTION RULES AND OTHER DEROGATIONS** ....................... 11
      5.2.5 **IMPORTS OF PRODUCTS FROM ORGANIC PRODUCTION** ...................................... 12
      5.2.6 **PLANNING AND PRIORITISATION OF CONTROLS** .................................................... 13
      5.2.7 **PROCEDURES FOR PERFORMANCE AND REPORTING OF CONTROL ACTIVITIES** .... 15
      5.2.8 **COMMUNICATION, COORDINATION AND COOPERATION** .................................. 15
      5.2.9 **ENFORCEMENT MEASURES** ...................................................................................... 16
   5.3 **SEED DATA BASE** .................................................................................................................... 17
6 **OVERALL CONCLUSIONS** ........................................................................................................... 18
7 **CLOSING MEETING** ...................................................................................................................... 18
8 **RECOMMENDATIONS** .................................................................................................................. 19
9 **ANNEX 1 - LEGAL REFERENCES** .................................................................................................. 20
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>BLE</td>
<td>Federal Office for Agriculture and Food <em>(Bundesanstalt für Landwirtschaft und Ernährung)</em>, the central competent authority</td>
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<tr>
<td>BMELV</td>
<td>Federal Ministry of Food, Agriculture and Consumer Protection <em>(Bundesministerium für Ernährung, Landwirtschaft und Verbraucherschutz)</em></td>
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<td>CA</td>
<td>Competent Authority</td>
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<td>CB(s)</td>
<td>Control Body(ies)</td>
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<tr>
<td>DAkkS</td>
<td>German accreditation body <em>(Deutsche Akkreditierungsstelle)</em></td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<td>FiBL</td>
<td>Research Institute of Organic Agriculture <em>(Forschungsinstitut für biologischen Landbau)</em></td>
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<td>FVO</td>
<td>Food and Veterinary Office</td>
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<td>Länd/er</td>
<td>Federal State/s</td>
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<td>LA VES</td>
<td>Lower Saxony State Office for Consumer Protection and Food Safety <em>(Niedersächsisches Landesamt für Verbraucherschutz und Lebensmittelsicherheit)</em></td>
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<td>LÖK</td>
<td>Länder forum/working group on organic farming</td>
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<td>ML-BB</td>
<td>Ministry for Infrastructure and Agriculture of the State of Brandenburg <em>(Ministerium für Infrastruktur und Landwirtschaft des Landes Brandenburg)</em></td>
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<td>MS</td>
<td>Member State</td>
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<td>ÖLG</td>
<td>Organic Farming Act <em>(Gesetz zur Durchführung der Rechtsakte der Europäischen Gemeinschaft oder der Europäischen Union auf dem Gebiet des ökologischen Landbaus)</em></td>
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<tr>
<td>ÖLGKontrollStZulV</td>
<td>Ordinance on the approval of control bodies <em>(Verordnung über die Zulassung von Kontrollstellen nach dem Öko-Landbaugesetz)</em></td>
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<tr>
<td>TC</td>
<td>Third Country</td>
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1 Introduction

This audit took place in Germany from 10 to 21 June 2013. It formed part of the Food and Veterinary Office's (FVO) planned programme.

The team comprised three auditors from the FVO and a national expert from a Member State. Representatives of the Bundesamt für Verbraucherschutz und Lebensmittelsicherheit (Federal Office for Consumer Protection and Food Safety – BVL) accompanied the FVO team for the duration of the audit.

An opening meeting was held on 10 June 2013 with representatives from the Bundesanstalt für Landwirtschaft und Ernährung (Federal Office for Agriculture and Food – BLE) which is the central competent authority, the Bundesministerium für Ernährung, Landwirtschaft und Verbraucherschutz (Federal Ministry of Food, Agriculture and Consumer Protection – BMELV), the Länder visited, the German accreditation body (Deutsche Akkreditierungsstelle - DAkkS) and the Customs. At this meeting, the audit objectives, the itinerary, the standard reporting and follow-up procedures were confirmed, and additional information was requested for the satisfactory completion of the audit.

The report makes a number of recommendations to the competent authorities, aimed at rectifying the shortcomings identified and enhancing the implementation of control measures.

2 Objectives

The objectives of the audit are to evaluate the control systems in place for organic production and labelling of organic products and in particular the implementation of the requirements set out under Regulation (EC) No 834/2007 concerning

- all stages of production, preparation and distribution of organic products and
- the use of indications referring to organic production in labelling and advertising.

In pursuit of these objectives, the following sites were visited:

<table>
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<tr>
<th>Visits/meetings</th>
<th>No</th>
<th>Comments</th>
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<tbody>
<tr>
<td>Competent authorities</td>
<td></td>
<td></td>
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<tr>
<td>Federal level</td>
<td>2</td>
<td>Opening and final meetings with the competent authorities</td>
</tr>
<tr>
<td>State level</td>
<td>2</td>
<td>Meeting with competent authorities in Lower Saxony and Brandenburg/Berlin</td>
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<td>Control bodies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Control bodies</td>
<td>3</td>
<td>Visit of the headquarters of CB1, CB2 and CB3</td>
</tr>
<tr>
<td>On-site-visits</td>
<td></td>
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</tr>
<tr>
<td>Region: Lower Saxony</td>
<td>3</td>
<td>Importer, orchard, egg farm</td>
</tr>
<tr>
<td>Control Bodies: CB1, CB2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Region: Brandenburg</td>
<td>4</td>
<td>Retailer (certified by CB4), horticulture/cereal crops, dairy farm, dairy food processor</td>
</tr>
<tr>
<td>Control Bodies: CB3, (CB4)</td>
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In terms of scope, the audit assessed the performance of competent authorities, as well as the organisation of the controls carried out by control bodies (CBs) including import controls, controls of operators producing, preparing and distributing organic products, controls on the labelling and marketing of organic products. The audit also addressed verification procedures and audits.

3 Legal Basis

The audit was carried out under the general provisions of European Union (EU) legislation in particular Article 45 of Regulation (EC) No 882/2004 of the European Parliament and of the Council.

EU legal acts quoted in this report refer, where applicable, to the last amended version. Full reference to documents quoted in this report is given in Annex 1.

4 Background

Between 1999 and 2004 the FVO carried out a total of 16 audits on organic farming in nine Member States (MSs) and seven Third Countries (TCs).

The FVO carried out an audit on organic farming in Germany from 11 to 15 October 1999 the results of which are described in report DG(SANCO)/1101/99 which is accessible on the website of the Directorate-General for Health and Consumer at the following link:

http://ec.europa.eu/food/fvo/ir_search_en.cfm

The report concluded that the system of supervision carried out by the competent authorities was partly affected by a lack of coordination between the competent authorities.

Based on a Memorandum of Understanding between the Directorate-General for Health and Consumers and the Directorate-General for Agriculture and Rural Development, the FVO has undertaken a new series of audits on organic production to MSs and TCs.

5 Findings and Conclusions

5.1 Relevant National Legislation and Provisions

Legal requirements

Article 291 of the Treaty on the functioning of the EU establishes that Member States shall adopt all measures of national law necessary to implement legally binding Union acts.

Findings

In Germany there are two main laws implementing Regulation (EC) No 834/2007.

The first is the Organic Farming Act (Gesetz zur Durchführung der Rechtsakte der Europäischen Gemeinschaft oder der Europäischen Union auf dem Gebiet des ökologischen Landbaus - ÖLG), hereafter the ÖLG, in force since 1 January 2009.

The second is the Ordinance on the approval of control bodies (Verordnung über die Zulassung von Kontrollstellen nach dem Öko-Landbaugesetz), hereafter the ÖLGKontrollStZulV, in force since 12 May 2012.
The ÖLG contains some implementing measures as follows: a) reporting duties of CBs, included those in case of irregularities and infringements; b) delegation of tasks from the Länder to CBs; c) the pooling of some tasks to BLE; d) compulsory controls of catering facilities like restaurants and canteens and e) provisions regarding penalties and fines.

The ÖLGKontrollStZulV contains detailed criteria for the approval of CBs including a list of measures to be taken in case of irregularities and infringements.

The federal structure in Germany empowers Länder to legislate in various fields, including official controls on organic production. According to information provided by BLE the audit team noted that in four Länder (Bayern, Hessen, Rheinland-Pfalz and Sachsen) domestic legislation assigns the power to grant various derogations and authorisations to CBs operating in their Länder which is not in compliance with relevant requirements of the EU organic legislation. These include the possibility to increase the percentage of non-organic animals allowed to be brought onto a holding as described in Article 9(4) of Commission Regulation (EC) No 889/2008 and the authorisation of some animal management practices referred to Article 18(1) of the said Regulation.

Conclusions

According to the information provided by the CCA, all measures of national law necessary to implement legally binding Union acts relevant to this audit have been adopted in Germany. However, in some Länder domestic legislation assigns the power to grant various derogations and authorisations to CBs operating therein. This is not in compliance with relevant EU requirements.

5.2 ORGANISATION AND IMPLEMENTATION OF CONTROLS

5.2.1 Competent Authorities and control bodies

5.2.1.1 Competent Authorities

Legal requirements

According to Article 27(1) of Regulation (EC) No 834/2007 MSs shall set up a system of controls and designate one or more CAs responsible for controls in respect of the obligations established by this Regulation in conformity with Regulation (EC) No 882/2004. Article 27(4) of this Regulation lays down, that CAs may confer its control competences to one or more other control authorities or delegate control competences under certain conditions to one or more CBs and shall designate authorities responsible for the approval and supervision of CBs.

Article 4 of Regulation (EC) No 882/2004 requires the CAs to ensure that they have access to a sufficient number of suitably qualified and experienced staff; that appropriate and properly maintained facilities and equipment are available. Article 6 requires CAs to ensure that staff receive appropriate training and are kept up-to-date in their competencies.

Article 27(4)(a) of Council Regulation (EC) No 834/2007 requires that control authorities offer adequate guarantees of objectivity and impartiality, and have at their disposal the qualified staff and resources necessary to carry out their functions.

Findings

Tasks and responsibilities for the control system for organic production are clearly identified and distributed among the following authorities:

- BLE is a federal institution, within the portfolio of BMELV, in charge of approval and withdrawal of CBs, approval of inspectors of the CBs and authorisations of imports under
Article 19 of Regulation (EC) No 1235/2008. BLE receives annual reports from the CAs of each Länder.

- CAs in each Land are in charge of the supervision of every CB operating in their territory. Moreover, CAs are responsible for the managing of irregularities and infringements as described in Article 30 of Regulation (EC) No 834/2007, for the granting of authorisations and derogations in accordance with the organic legislation and for market control on labelling of organic products.

- In 2013 there are 20 delegated CBs approved in Germany to carry out controls of organic operators as defined in Article 28 of Regulation (EC) No 834/2007.

- Customs is the designated control authority in charge of controls related to Article 13 of the Commission Regulation (EC) No 1235/2008, including products imported under Article 19 of the same Regulation and endorses certificates of inspection for imports.

- DAkkS is in charge of the accreditation of all CBs having their HQs in Germany in accordance with EN 45011 (which has been recently replaced by ISO/IEC 17065).

- The Research Institute of Organic Agriculture (Forschungsinstitut für biologischen Landbau –FiBL) manages the national database for organic seeds.

In the two Länder visited all staff from the CAs met by the audit team were competent and familiar with EU and national provisions in the organic sector. In addition to that the audit team reviewed records of training sessions and meetings involving all staff engaged in supervision of CBs were included. In Lower Saxony staff included one full-time-equivalent from the Ministry plus four from the State Office. In Brandenburg one full-time-equivalent from the Ministry plus two half-time-equivalents from the State Office were involved in the organic sector.

According to a representative of the Customs met by the audit team, a detailed and binding work instruction explaining their tasks and responsibilities for imports of organic products has been issued. However, the audit team noted that no specific training on imports of organic products has ever been organised for the Customs staff (see section 5.2.5).

Conclusions

A system of official controls with designated CAs and delegated CBs which carry out control tasks is in place in accordance with Article 27(1) of Regulation (EC) No 834/2007. There is a clear division of tasks and areas of competence between CAs and CBs.

Overall, staff from the CAs met by the audit team were competent and familiar with EU and national provisions in the organic sector.

5.2.1.2 Control bodies: accreditation, approval, supervision and withdrawal

Legal requirements

The CA may delegate control tasks to a particular CB only if the conditions laid down in Article 5(2) of Regulation (EC) No 882/2004 are met.

1 In their response to the draft report, the competent authorities noted that in some Länder the authorities responsible for food monitoring are involved in this market control. The CAs are notified of any shortcomings identified in the labelling of such products. The CAs are also regularly involved in the training of food inspectors.

2 In their response to the draft report, the competent authorities noted that information and training for German customs officials are needs-based and provided by means of (nationwide) staff meetings and working groups. Officials also receive prompt instructions concerning any changes to the relevant provisions. In addition, in case of doubt, the customs offices have to involve the competent monitoring authorities (see administrative order SV 1950, paragraph 16).
Art. 27(5) to (7) of Reg. 834/2007 lays down the conditions under which the CA can delegate controls tasks to CBs, the criteria that the CA has to take into account whilst approving CBs, the tasks that cannot be delegated and the situations in which CA may or shall withdraw the delegation from CBs.

Article 27(5)(b) of Council Regulation (EC) No 834/2007 requires that there is proof that CBs have the expertise, equipment and infrastructure required to carry out the tasks delegated to them and are impartial and free from any conflict of interest as regards the exercise of the tasks delegated to them.

Article 27(8) of Regulation (EC) No 834/2007 provides that, in accordance with Article 5(3) of Regulation (EC) No 882/2004, CAs delegating specific tasks to CBs shall organise audits or inspections of CBs as necessary. In addition, paragraph 9 of the same Article requires that the CA shall ensure that the controls carried out by the CB are objective and independent, verify the effectiveness of its controls, take cognisance of any irregularities or infringements found and corrective measures applied and withdraw approval of that CB where it fails to satisfy the requirements.

The competent authority may delegate specific tasks to a particular control body only if the condition set out in Article 5(2) of Regulation (EC) No 882/2004 are met. Article 27(4)(a) of Council Regulation (EC) No 834/2007 requires that control authorities offer adequate guarantees of objectivity and impartiality, and have at their disposal the qualified staff and resources necessary to carry out their functions.

Findings

The ÖLG, among others, contains the main requirements concerning approval and withdrawal of approval from CBs. It states that these tasks are under the remit of BLE. The approval of a CB is valid throughout Germany and may be subject to time-limits, conditions and requirements or withdrawal where this is necessary.

The ÖLGKontrollStZulV contains detailed requirements for the approval of a CB and, to some extent, it provides also guidance for supervision of CBs' performance.

The accreditation in accordance with EN 45011 is a prerequisite for a CB to be approved. On the basis of information provided by BLE all 20 approved CBs in Germany are accredited, 19 of them are accredited by DAkkS and one is accredited by an accreditation body based in a Third Country. According to information provided by BLE, this CB is part of an international group and its accredited branch office in Germany is the one approved by BLE. The audit team verified that the scope of its accreditation refers to Regulation (EC) No 834/2007.

In the context of their surveillance DAkkS carries out office and witness audits mostly on an annual basis. The audit team noted that out of 19, four CBs had not received an office audit in 2012. However, a representative from DAkkS explained the following:

- In two cases the surveillance frequency was 18 months because the CBs were previously under accreditation of AKS, a former state owned (Lower Saxony) accreditation body. These CBs are going to be re-accredited this year and this implies a new full assessment by DAkkS.
- In a third case the surveillance frequency was postponed to March 2013 due to a number of non-conformities which required time to be rectified and ruled out the planning for the 2012 surveillance.
- In the fourth case DAkkS explained they were informed by this CB in early 2012 that they would cease all activities regarding Regulation (EC) No 834/2007 before the end of the said year. Thus, no surveillance was carried out. However, the audit team noted that even in 2011
no surveillance took place and this was explained by DAkkS arguing that a general assessment of the general Quality Management System of the CB and assessments of other certification schemes (including the conventional food/agri area) were nevertheless carried out. DAkkS eventually added that since this CB is still in operation in 2013 a surveillance assessment has been scheduled for this year in order to ensure a correct transition of case-files and an appropriate case management for the last remaining months.

The ÖLG requires the CAs in every Land to supervise those CBs operating in its territory. If a CA identifies circumstances which justifies the withdrawal of the approval, it shall inform BLE and, where relevant, the CA of the Land where the HQs of the CB is located.

CAs carry out their supervision by applying a number of supervisory methods, routinely and in response to circumstances, including office and witness audits. According to information provided by BLE, in 2012, out of the 20 CBs approved, 17 were subject to office audits and a total of 837 witness audits (i.e. 2.8% of the total of certified operators) were carried out.

The audit team noted that one of the three CBs not subject to an office audit in 2012 was not audited also in 2011 and it was also the same CB not audited by DAkkS (the fourth case mentioned above). The relevant CA (North Rhine-Westphalia) explained that in 2011 the CB's approval was reviewed by BLE and some witness audits were carried out both in 2011 (two) and in 2012 (four). Furthermore it added they had been informed that the taking over of clients by another CB had already started in 2012. However, according to data provided by BLE, the audit team noted that:

- Relevant CA (North Rhine-Westphalia) did not carry out inspections in 2012, as well none have been planned for 2013, in order to ensure a proper managing of the taking over of relevant operators by another CB\(^3\).
- The performances of this CB in 2012 were rather poor, and did not satisfy the ÖLGKontrollStZulV which requires CBs to carry out 10% of additional inspections and foresee that 20% of all inspections have to be unannounced. In fact this CB did not carry out any additional inspections and only 6.8% of inspections were unannounced.
- On 16 November 2012 BLE received a written notification from this CB regarding their intention to cease their activities on organic farming. However, this CB is still one of the 20 currently authorised CBs in Germany\(^4\).

The CA for organic farming in Lower Saxony is LAVES (Niedersächsisches Landesamt für Verbraucherschutz und Lebensmittelsicherheit) and it operates in accordance with an ISO 9001 certified Quality Management System. According to the information provided by LAVES, 20 CBs are active in its territory and two of them have their HQs therein. In 2012, LAVES carried out one office audit in each of the two and a total of 113 witness audits representing around 4.6% of the total organic operators.

According to representatives of LAVES, every year a programme of office and witness audits is set up. Witness audits are planned with the main purpose to verify the performances of every inspector active in Lower Saxony and to reach the target of 5% of operators. During the planning, operators

\(^3\) In their response to the draft report, the competent authorities noted that, in 2012 and 2013 the CA (North Rhine-Westphalia) ensured, through extensive correspondence with BLE, the CB and the operators subject to inspections, that all companies which place organic products on the market are subject to the control procedure at all times.

\(^4\) In their response to the draft report, the competent authorities noted that, on 16 November 2012 BLE received a written notification from this CB regarding their intention to cease their activities on organic farming. The number of operators on which it carried out checks fell from 68 at the end of 2012 to 43 on 1 September 2013; however, because of contractual obligations, they will still be monitored by the CB until the end of the year at the latest. This CB is still one of the currently authorised CBs in Germany. Re-accreditation will be completed in 2013.
with a larger range of activities are preferred. The audit team reviewed some records of office and witness audits recently carried out and confirmed that a comprehensive checklist was used.

The CA for organic farming in Brandenburg and Berlin is ML-BB (Ministerium für Infrastruktur und Landwirtschaft des Landes Brandenburg). According to the information provided by ML-BB, 18 CBs are active in the two Länder and two of them have their HQs therein. In 2012, ML-BB did not carry out office audits but 31 witness audits representing 3% of the total organic operators.

According to representatives of ML-BB, an annual planning of witness and office audits is not considered as necessary. Witness audits are organised on an interval-basis (few months interval) taking into account a target of 3% of the total number of organic operators and these are selected on a risk-based approach. The audit team examined some records of witness audits recently carried out and confirmed that a comprehensive checklist was used. However, the deficiencies identified by the audit team concerning the planning of inspections on a risk-based approach and the communications of irregularities (see section 5.2.6 and 5.2.9 respectively) were not identified by ML-BB during the annual supervisions.

In Germany all inspectors carrying out inspections on behalf of a delegated CB must be approved by BLE in accordance with criteria stipulated in the ÖLGKontrollStZulV. This approval may refer to one or more sectors (e.g. agricultural production, processing, imports, etc.). Annually, on the basis of the total number of inspections and the number of inspections for each sector which are notified by the CBs, BLE verifies whether inspectors continue to fulfil the minimum criteria laid down in the ÖLGKontrollStZulV. Depending on this verification, BLE may exclude one or more sectors from the scope of the approval of inspectors.

For new inspectors, BLE's qualification also includes an assessment of any potential conflict of interest. CBs are obliged to communicate any relevant change in this regard and BLE, then, evaluate it case by case.

All CBs visited by the audit team had procedures in place for training (induction and regular ongoing training) and also concerning conflict of interests. Various inspectors' files were checked in the CBs visited and all relevant requirements were fulfilled, including those referring to the conflict of interests. All inspectors met were familiar with the EU and the national organic legislation.

Conclusions

A system for the approval, withdrawal and supervision of CBs is in place and it includes, in addition to other methods, office and witness audits. Accreditation of CBs is a pre-requisite for an approval of a CB and all CBs currently in operation are accredited in accordance with standard EN 45011. However, the supervision of one CB in North Rhine-Westphalia has not been sufficient to ensure that all conditions laid down by Article 27(5) to (7) of Regulation (EC) No 834/2007 are satisfied and the supervision of a CB in Brandenburg failed to notice some deficiencies identified by the audit team. This is not in compliance with Article 27(8) and (9) of Regulation (EC) No 834/2007.

5.2.2 Controls on organic production

5.2.2.1 Registration of operators

Legal requirements

According to Article 28(1) of Council Regulation (EC) No 834/2007 any operator who produces, prepares, stores, or imports from a third country products under Article 1(2) of the same Regulation or who places such products on the market shall, prior to placing on the market of any products as organic or in conversion to organic notify his activity to the competent authorities of the Member State where the activity is carried out and submit his undertaking to the control system referred to in
Article 27 of the same Regulation.

Article 28(2) of Regulation (EC) No 834/2007 provides that MSs may exempt from the application referred to in the same Article operators who sell products directly to the final consumer or user provided they do not produce, prepare, store other than in connection with the point of sale or import such products from a TC or have not contracted out such activities to a third party.

Article 92(a) of Commission Regulation (EC) No 889/2008 requires that MSs shall make available to the public in appropriate manner the updated lists of operators as referred to in Article 28(5) of Regulation (EC) No 834/2007 containing updated documentary evidence related to each operator.

Findings

All CBs visited had procedures in place to notify to relevant CAs those operators which had signed a contract for an organic certification.

In Germany all organic operators and those in conversion are included in a common database publicly available from which the documentary evidence as laid down in Article 92(a) of Commission Regulation (EC) No 889/2008 can be recalled. The audit team successfully tested it on a random basis.

According to the ÖLG, operators referred to Article 28(2) of Regulation (EC) No 834/2007 are not included in the control system as laid down in Article 27 of the same Regulation; therefore, they are not required to be certified by a CB.

Conclusions

A system for the registration of operators subject to the control system as referred to in Article 27 of Regulation (EC) No 834/2007 is in place. The information referred to in Article 92(a) of Commission Regulation (EC) No 889/2008 has been made publicly available.

5.2.2.2 Controls of operators

Legal requirements

Specific rules on production, processing, packaging, transport and storage of products are laid down under Title II of the same Regulation.

Title IV of Commission Commission Regulation (EC) No 889/2008 provides, in accordance with Article 27 of Council Regulation (EC) No 834/2007 for general minimum control requirements as well as for specific control requirements for plants and plant products, livestock and livestock products, preparation of products, imports, units using contracts to third parties, units preparing feed.

According to Article 65 of Commission Commission Regulation (EC) No 889/2008 control authorities or CBs shall carry out at least one physical inspection per year of all operators. Moreover, the control authority or control body shall carry out random control visits, primarily unannounced.

Findings

General aspects of the controls

All the CBs visited had procedures and checklists in place to carry out inspections, although the level of details of these checklists varied among these CBs.

The audit team witnessed routine inspections carried out by all the CBs visited. However, due to time constraints, in a few cases, the scope of the inspections was reduced. In all cases, inspectors arrived with all the paper files of the operator, were familiar with operators activities and past
records and used a checklist.

As a good practice the audit team noted that a comprehensive list of commercial names of plant protections products, fertilisers, cleaning products and other off-farm inputs authorised in organic farming was known and used by all CBs visited. This list is publicly available and it is managed by FiBL.

**Importer**

The audit team visited an importer of various plant products and processed plant products such as oil seeds, cereals herbs, spices, dried fruit and vegetables. This operator was certified by CB1. The inspector carried out a structured and systematic inspection and rightly identified some irregularities during a mass balance exercise. These irregularities were, notified to the operator.

The audit team asked to see some import files and, where relevant, checked original authorisations granted by BLE according to Article 19.

**Producers**

The audit team visited an orchard where sheep were also kept. The inspector from the CB2 carried out a structured and systematic inspection. A few irregularities concerning separation of organic and conventional products were rightly identified and notified to the operator.

At the egg farm visited by the audit team some further processing activities were also carried out. Due to time constraints, the inspector from CB2 reduced the scope of their inspection to those activities related only to the production of eggs. The inspector carried out a structured and systematic inspection. In this farm one mobile housing unit was used. It was designed to host 225 laying hens. Representative of LAVES was aware of this and explained that some establishments use this system for laying hens in smaller units. The audit team confirmed that CB2 had verified whether the structural characteristics of this mobile housing fulfilled relevant EU requirements.

At the dairy farm the inspector from CB3 carried out a structured and systematic inspection. Some irregularities concerning the housing conditions of calves and bulls were rightly identified and subsequently notified to the operator.

At the farm growing asparagus the inspector from CB3 carried out a structured and systematic inspection and identified a few irregularities concerning record-keeping for some authorised pesticides, subsequently notified to the operator. However, the audit team noted some inconsistencies in relation to the intensity and type of inspections (see section 5.2.6).

At the food plant producing dairy products the inspector from CB3 carried out a structured and systematic inspection. Some irregularities concerning mass balance and traceability were rightly identified and notified to the operator.

**Conclusions**

Overall the controls of operators observed by the audit team covered the requirements for controls as laid down by Commission Regulation (EC) No 889/2008.

The audit team noted that a comprehensive list of commercial names of off-farm inputs, such as plant protections products and fertilisers, is publicly available and managed by FiBL. Such list represent an important tool for CBs' inspectors during their controls.

5.2.2.3 **Sampling**

**Legal requirements**

According to Article 65(2) of Commission Regulation (EC) No 889/2008 the control authorities or
CBs may take samples. Samples shall be taken and analysed where the use of products not authorised for organic production is suspected.

Laboratories used in the context of official controls should meet the requirements laid down in Article 12 of Regulation (EC) No 882/2004 or in Article 5(2) of the same Regulation in case official controls have been delegated to CBs.

Findings

According to the ÖLGKontrollStZulV a minimum of 5% of operators shall be sampled by the CBs for non authorised products and in all of the CBs visited the minimum target of 5% of operators to be sampled was a pre-requisite in their sampling programme. Sampling procedures always contain details on how to take and how to label the samples.

The conditions under which laboratories performing test for CBs have to operate are not explicitly referred to neither in the ÖLGKontrollStZulV nor in the new guidelines adopted by LÖK. However, the audit team randomly verified some analytical reports in all CBs and confirmed that tests were performed by laboratories accredited EN ISO/IEC 17025, analytical scopes were appropriate and an appropriate identification of the sample taken was included in such reports.

CB1 took a number of samples (corresponding to 5.1% of operators) in 2012 and no positive cases were detected. An annual sampling programme is prepared at the beginning of every year and the selection of operators is partly based on the risk classification of operators and partly entrusted to the inspectors’ specific knowledge of operators and/or on the basis of suspicion.

CB2 took a number of samples (corresponding to 6.0% of operators) in 2012 and 2.0 % of them were positive. An annual sampling programme is prepared at the beginning of each year and the selection of operators is decided at HQs on the basis of various factors as, e.g. suspicion, notifications of positive cases sent by operators, on-line databases and information provided by CAs. Inspector’s knowledge is taken into account only for the final fine-tuning of the sampling, e.g. to select the specific crop to be sampled.

CB3 took a number of samples (corresponding to 5.0% of operators) in 2012 and 12.0% of positive cases were detected. An annual sampling programme is prepared at the beginning of each year and the selection of operators is mainly decided at HQs taking into account operators risk classification and on the basis of suspicion. The audit team noted that the above-mentioned three positive cases in 2012 were not communicated to the relevant CA as required (see section 5.2.9).

Conclusions

The CBs visited had appropriate sampling procedures and plans in place. The testing of the samples is performed by accredited laboratories and the analytical scope of the testing is appropriate.

5.2.3 Control on labelling and traceability

Legal requirements

Article 23 of Regulation (EC) No 834/2007 provides for the use of terms referring to organic production and according to paragraph 5 of the same Article, MSs shall take the necessary measures to ensure compliance with this Article.

Compulsory indications concerning the use of the terms as referred to in Article 23(1) of Regulation (EC) No 834/2007 are laid down in Article 24 of the same Regulation.

Article 27(13) of Council Regulation (EC) No 834/2007 provides that MSs shall ensure that the control system as set up allows for the traceability of each product at all stages of production,


**Findings**

According to the ÖLGKontrollStZulV a cross-establishments traceability exercise shall be carried out by each CB for 10% of their operators annually. In all CBs visited this requirement was included in their internal procedures.

The audit team selected two organic products at a retailer on the first day of the audit (millet seeds and a soup). CAs of Brandenburg carried out the traceability exercise and although with a slight delay and with some documents missing, the audit team could trace both products.

All CBs visited had procedures in place to verify labelling requirements of organic products and these included also verifications during routine inspections. The audit team verified this during on-the-spot visits.

The audit team observed an inspection in a retailer carried out by an inspector of CB4. This retailer was subject to the control system as laid down in Article 28 of Regulation 834/2007 because some activities like cutting and preparations of products in meat/cheese counters and re-packaging of fruits/vegetables take place. The audit team noted that during the inspection an accurate label verification of the retailer’s own brand products was carried out. Furthermore, the inspector added that a routine inspection also include a check to identify any major labelling irregularities of all other products placed on the shelves.

However, according to the information provided by representatives of the CAs of both Länder visited, no planned market control of operators such as shops and retailers not certified by a CB (see section 5.2.2.1) is carried out. These controls are not considered a priority (see section 5.2.6). This is not in compliance with Article 23(5) of Regulation (EC) No 834/2007.

**Conclusions**

An appropriate system is in place to ensure traceability of products at all stages (this includes also a national provision for CBs to carry out 10% cross-establishment checks). However, in the Länder visited no planned market control is carried out in shops and retailers as referred to Article 28(2) of Regulation (EC) No 834/2007. This is not in compliance with Article 23(5) of the same Regulation.

5.2.4 Exceptional production rules and other derogations

**Legal Requirements**

Where an ingredient of agricultural origin is not included in Annex IX of Commission Regulation (EC) No 889/2008, that an ingredient may only be used in its non-organic form for the preparation of organic processed products and only under certain conditions as set out in Article 29 of the same Regulation. A MS shall immediately notify the other MSs and the Commission of authorisations of such use of non-organic ingredients.

Sections 2 to 4 of Chapter 6 of Title II of Commission Regulation (EC) No 889/2008 provide for exceptional production rules related to non-availability of organic farm inputs, specific management problems in organic livestock, use of specific products and substances in the processing and catastrophic circumstances in accordance with Article 22(2) of Regulation (EC) No 834/2007.

**Findings**

In Germany some authorisations to use non-organic food ingredients have been granted by BLE. Such derogations have been communicated to the EC and other Member States with all relevant
details as required by Article 29(2) of Regulation (EC) No 889/2009.

In the two Länder visited, the audit team noted that authorisations and derogations are carefully managed by relevant CAs and are granted on the basis of a case-by-case assessment. In all CBs visited the audit team noted that specific procedures to manage this kind of request by operators are in place. With the exception of derogations for seed/vegetative propagating materials under Article 45 of Commission Regulation (EC) No 889/2008 (see section 5.3) all other requests are managed by the relevant CAs.

Concerning dehorning operations as referred to in Article 18(1) of Commission Regulation (EC) No 889/2008, some comprehensive discussions took place in the framework of Länder forum/working group on organic farming (hereafter: LÖK) meetings. According to information provided by BMELV a dedicated working group on dehorning under the aegis of the CA of North Rhine-Westphalia presented its conclusion and recommendations in a meeting held in 2010 where it was highlighted that dehorning should only be done if absolutely necessary and should be avoided in the future. Three options were indicated to achieve this: i) keeping of horned cattle in appropriate stables by experienced farmers, ii) breeding of hornless cattle (but urgent research is needed), iii) dehorning of calves not older than 6 weeks whereby application of anaesthesia and painkillers are obligatory.

However, the audit team noted that in Lower Saxony dehorning operations requests are not necessarily notified by operators to the CA. Although for this practice an authorisation by LAVES is required, according to representatives of both CBs visited in Lower Saxony, this is not considered a non-compliance if carried out under the supervision of an official or a private veterinarian, regardless the presence or not of the relevant authorisation by LAVES.

Conclusions

Despite a minor deficiency identified by the audit team in relation to the notification of dehorning practices to the CA in Lower Saxony (see section 5.2.8) in the two Länder visited the system in place for derogations and authorisation of certain management practices is in compliance with EU provisions.

Concerning the legal power to grant authorisations and derogations and its implications in some Länder see section 5.1.

5.2.5 Imports of products from organic production

Legal Requirements

A product imported from a TC may be placed on the EU market as organic if it fulfils the requirements for compliant products as laid down in Article 32 of Regulation (EC) No 834/2007 or the requirements for products providing equivalent guarantees as laid down in Article 33.


5 In their response to the draft report, the competent authorities noted that, in the event of applications for preventive dehorning, the CA in Lower Saxony refuses authorisation by written decision. According to Article 1(4) of Regulation (EC) No 834/2007, this Regulation applies without prejudice to other provisions. Thus, if the delegated authorities or persons justify dehorning based on other provisions, for example animal welfare, this should be accepted for organic farming even if there has been a written refusal from the CA. Organic farms which have dehorned animals must have this indicated by the veterinarian or give evidence to this effect in the livestock record. This evidence must be checked by the CBs.
Regulation (EC) No 834/2007. Models of the documentary evidence, the certificate of inspection and the extract of the certificate of inspection are provided in Annexes II, V and VI respectively. A list of TCs and relevant specifications referred to in Article 7 of Commission Regulation (EC) No 1235/2008 are contained in Annex III.

Article 19 of Reg. (EC) No 1235/2008 lays down transitional rules on equivalent imports of products not originating in listed TCs. It establishes the conditions under which MSs may authorise importers and when the authorisations have to be withdrawn. It also requires MSs to inform the other MSs and the Commission of each authorisation granted, including information on the production standards and control arrangements concerned.

**Findings**

According to information provided by BLE, importers wishing to place on the market an organic product need to notify their activities to the CA of the relevant Land and also need to be certified by an authorised CB. For products to be imported under transitional rules stipulated in Article 19 of Commission Regulation (EC) No 1235/2008, importers shall make an application to BLE. BLE evaluates such applications (which shall include valid certificates and inspection reports) and, where the conditions laid down in Article 19 are fulfilled, an authorisation is issued. Such authorisation shall always be submitted together with the inspection certificate for every consignment to be released into free circulation.

Customs is the CA in charge of verification of organic consignments and the endorsement of the certificate of inspections for imports in accordance with Article 13(1)(b) of the said Regulation.

During the visit to the importer and during the meeting at the head office of CB1, the audit team randomly checked import authorisations and relevant documentation relating to imports in 2012 and 2013. The audit team noted that original authorisations for imports issued by BLE were available, and most of the inspection certificates were properly endorsed by the Customs. However, in a few inspection certificates, box 17 was not filled in by Customs as required. It was explained that in such cases the consignment was split and another attached document was filled in and endorsed by Customs. The audit team verified the attached documents endorsed by Customs.\(^6\)

**Conclusions**

Despite a few minor deficiencies identified by the audit team in relation to the endorsement of the certificate of inspection, the system in place for the control of imports of organic products and for the granting of import authorisations is, overall, in compliance with the EU provision.

5.2.6 **Planning and prioritisation of controls**

**Legal Requirements**

Article 41 of Regulation (EC) No 882/2004 requires MSs to prepare a single integrated Multi-Annual National Control Plan (MANCP).

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\(^6\) In their response to the draft report, the competent authorities noted that, importing companies often make copies of the inspection certificate to facilitate matters and before presenting it to customs. In some cases the requirement under Article 13(6) of Regulation (EC) No 1235/2008 to have "COPY" or "DUPLICATE" printed on it is not met. This means that although control bodies may find an original with a stamp in box 17, they also receive copies with no indication of this. This is regularly documented as a failing in the course of checks. In cases in which the original does not have a customs stamp in box 17, the imported product is withdrawn from the market by the competent authority with a reference to organic farming in Lower Saxony. There are legal precedents for this.
Article 3 of Regulation (EC) No 882/2004 requires that official controls are carried out regularly, on a risk basis and with appropriate frequency, taking account of (a) identified risks; (b) the food business operators’ (FBO) past record with regard to compliance; (c) the reliability of any self checks that have already been carried out; and (d) any information that might indicate non-compliance. In addition, Article 27(3) of Regulation (EC) No 834/2007 requires that the nature and frequency of the controls shall be determined on the basis of an assessment of the risk of occurrence of irregularities and infringements as regards compliance with the requirements laid down in this Regulation and that all operators, with some exceptions, shall be subject to verification of compliance at least once a year.

According to Article 65(4) of Commission Regulation (EC) No 889/2008 control authorities or CBs shall carry out, in addition to the annual physical inspections referred to in paragraph 1 of the same Article random control visits, primarily unannounced, based on the general evaluation of the risk of non-compliance with organic production rules, taking into account at least the results of previous controls, the quantity of products concerned and the risk for exchange of products.

Findings

According to the ÖLGKontrollStZulV CBs shall have procedures in place to carry out annual risk assessments of their certified operators in order to determine the nature and frequency of their controls. The said law also provides for a list of risk factors that should be taken into account, such as the presence of subcontracted activities, parallel productions and past records of non-compliances. This assessment should provide the basis for a minimum required number of additional inspections (10%), unannounced inspections (20%) and sampling (5%).

In Germany, according to information provided by BLE, 20% of organic operators are, on average, subject to additional inspections and about 25% of the total of inspections are unannounced. In addition, around 5% of operators are sampled in accordance with a risk-based approach.

In all CBs visited annual physical inspections are carried out. The audit team noted that planning of inspections and sampling are carried out taking into account a number of risk criteria including those required by the ÖLGKontrollStZulV. On the basis of this assessment operators are allocated in classes of risk and consequently they might or might not be subject to additional inspections or sampling.

However, in CB3 the audit team noted a significant inconsistency in relation to the planning and delivery of inspections in a farm visited (see section 5.2.2.2). The operator was included in the class A (the highest risk), among others, for the reason that the owner also runs a conventional asparagus farm some kilometres away from the organic farm. According to the CB’s own procedure this operator should be subject to one additional inspection, preferably unannounced. However, it was inspected only once in 2011 and once in 2012. Both of these inspections were announced. Moreover, in 2012, CB3 carried out 4.8% of additional inspections and 6.4% of unannounced inspections.

According to information provided by both CAs of the Länder visited, market control of operators such as shops and retailers not certified by a CB, is not included in a planned risk-based programme of controls because is not considered a priority (see section 5.2.3). However, the audit team noted that this decision is not supported by a proper assessment of the risk of occurrence of irregularities and infringements as required by Article 27(3) of Regulation (EC) No 834/2007.

Conclusions

The CBs visited have annual control plans based on risk criteria harmonised by ÖLGKontrollStZulV. However, in one CB visited the planning and the delivery of controls were not adequate to the relevant risk. This is not in compliance with Article 27(3) of Regulation (EC) No 834/2007.
The nature and frequency of market controls carried out by CAs in the Länder visited is not based on a risk assessment as required by Article 27(3) of Regulation (EC) No 834/2007.

5.2.7 Procedures for performance and reporting of control activities

Legal Requirements

Article 8 of Regulation (EC) No 882/2004 requires that CAs carry out their official controls in accordance with documented procedures, containing information and instructions for staff performing official controls.

Article 9 of the above Regulation requires CAs to draw up reports on the official controls carried out, including a description of the purpose of official controls, the control methods applied, the results obtained and any action to be taken by the business operator concerned.

According to Article 65(3) of Commission Regulation (EC) No 889/2008 control authorities or CBs shall draw up a control report after each visit, countersigned by the operator of the unit or his representative.

Findings

CAs carry out supervision based on ÖLGKontrollSiZulV and guidelines adopted in 2004. These guidelines have been revised in May 2013 in the framework of LÖK meetings and include checklists for office and witness audits. They harmonise the supervision carried out by the different CAs in Germany. The audit team reviewed various examples of office and witness audits reports where requirements laid down in Article 9 of Regulation (EC) No 882/2004 were fulfilled.

Concerning controls carried out by CBs, in the three CBs visited the audit team confirmed that relevant and comprehensive procedures were in place and appropriate reports are drawn up after every inspection and countersigned by operators.

Concerning imports, the audit team confirmed that BLE and Customs have adequate procedure in place to carry out their control tasks.

Conclusions

Relevant CAs and the CBs visited carry out their control tasks in accordance with documented and comprehensive procedures and reports are drawn up after every inspection as required by EU provisions.

5.2.8 Communication, coordination and cooperation

Legal Requirements

Article 4(3) of Regulation (EC) No 882/2004 provides for efficient and effective co-ordination between CAs.

Article 4(5) of Regulation (EC) No 882/2004 requires that, when, within a CA, more than one unit is competent to carry out official controls, efficient and effective co-ordination and co-operation shall be ensured between the different units.

Article 27(5)(d) of Regulation (EC) No 834/2007 provides that CBs communicate the results of the controls carried out to the CA on a regular basis and whenever the CA so requests. Furthermore, Article 27(5)(e) requires that there is effective co-ordination between the delegating CA and the CB.

Article 27(14) provides that control authorities and CBs shall transmit to the CAs each year by 31
January a list of the operators which were subject to their controls of the previous year and by 31 March a summary report of the control activities carried out during the previous year.

Findings
In Germany an important tool aimed at improving coordination and harmonisation between CAs is LÖK. Meetings of this Länder forum/working group on organic farming take place four times a year during which various topics are discussed. In some cases decisions which may affect all Länder are taken and although not legally binding, each CA is strongly encouraged to adopt them. The audit team looked at minutes of some of these meetings and, in particular, took into consideration the initiative concerning the dehorning (see section 5.2.4), the one concerning guidelines for the supervision of CAs (see section 5.2.7) and the initiative proposed by LAVES in relation to controls on egg farms (see section 5.2.9).

Concerning communication between CBs and CAs, in the three CBs visited, the audit team confirmed that results of controls carried out and information concerning operators were adequately communicated to the relevant CAs.

Concerning exchange of information between CAs and paying agencies, according to representatives of CAs of the Länder visited, there is an obligation to inform the relevant office dealing with the agricultural payment in case of irregularities or infringements affecting the organic status of the products. The audit team confirmed that CAs in both Länder had procedures in place to inform the paying agency in case of infringements.

Conclusions
Germany has established a good communication and coordination structure between different CAs involved in the control system for organic products.

5.2.9 Enforcement measures

Legal Requirements
Article 54 of Regulation (EC) No 882/2004 requires a CA which identifies a non-compliance to take appropriate action to ensure that the operator remedies the situation.

According to Article 55(1) of Regulation (EC) No 882/2004 Member States shall lay down the rules on sanctions applicable to infringements of feed and food law and other Community provisions relating to the protection of animal health and welfare and shall take all measures necessary to ensure that they are implemented. The sanctions provided for must be effective, proportionate and dissuasive.

According to Article 27(5)(d) of Regulation (EC) No 834/2007 CBs shall, if the results of the controls indicate non-compliance or point to the likelihood of non-compliance, immediately inform the CA.

Article 30 of the same Regulation sets out measures in cases of infringements and irregularities. Paragraph 2 of this Article requires that information about cases of irregularities or infringements affecting the organic status of a product shall be immediately communicated between the CBs, control authorities, CAs and MSs concerned and, where appropriate, to the Commission.

Article 91 of Commission Regulation (EC) No 889/2008 provides further specification on measures in cases of suspicion of infringements and irregularities.

Findings
The ÖLGKontrollStZulV includes a detailed catalogue of measures to be taken in case of
irregularities and infringements. The same law also requires CBs to have their own catalogue of measures based on the one included in the said law. This catalogue of measure is assessed by BLE during the approval process of CBs.

The ÖLG provides the legal bases to impose fines on operators who do not comply with organic farming legislations.

In the three CBs visited the audit team confirmed that detailed catalogues and procedures were in place. Various operators' files were checked and, where irregularities were found, appropriate measures and follow-up activities were taken. Moreover, the audit team noted that, where communication between CBs was necessary because of an infringement involving more CBs, this took place effectively. In some cases CAs were also involved and the audit team verified that appropriate actions were taken.

Concerning the recent egg fraud the audit team did not receive any detailed information because investigations are still on-going. LAVES has recently made some recommendations to all CBs and CAs aimed at improving inspections in egg farms. These recommendations are going to be discussed during next LÖK meetings.

According to the ÖLG, irregularities and infringements as referred to Article 30(1) of Regulation (EC) No 834/2007 shall be immediately communicated to relevant CAs. During the meeting with the CBs and with the CAs the audit team checked various operators' files where such irregularities were identified and most of them were immediately notified to CAs and, if relevant, to other CBs. However, during the meeting with CB3, the audit team noted that in one of the two notifications in 2012 the infringement was identified on 03 September and was notified on 25 September. Furthermore, a case of several irregularities found during an inspection in 2012, included a positive sample with residue of a fungicide, was not communicated to the CA.

Representatives of the CB3 also added that, contrary to EU provisions, the detection of a residue below the limit of 0.01 ppm is not considered an irregularity and thus is not communicated to the CA.

In Lower Saxony the audit team noted that irregularities concerning dehorning as described in Article 18(1) of Commission Regulation (EC) No 889/2008 are not communicated to the CA (see section 5.2.4).

Conclusions

The system in place for measures taken in case of irregularities and infringements and for follow-up is in compliance with EU provisions. There is also a system in place for communications in case of irregularities and infringements. However, such communication does not always take place as required by Article 30(2) of Regulation (EC) No 834/2007.

5.3 Seed Data Base

Legal Requirements

According to Article 48 of Commission Regulation (EC) No 889/2008 MSs shall ensure that a computerised database is established for the listing of the varieties for which seed or seed potatoes obtained by organic production methods are available within its territory. Articles 49 to 56 of the same Regulation provide further requirements on the registration and information to be kept in the database as well as on the access to this information and reporting on the authorisations.

Findings

In Germany, the organic seed data base (called OrganicXseeds) is managed by FiBL. According to
representatives from FiBL, there are currently about 10,000 products. Seed producers constantly update the database when a product is no longer available. Two annual meetings are organised by FiBL where seed producers and CAs are invited.

An expert group coordinated by FiBL annually grants general derogations on the basis of Article 45(8) of Commission Regulation (EC) No 889/2008. Case-by-case derogations for individual users are granted by CBs but CAs are also informed. The audit team reviewed examples of such derogations during meetings with CBs and confirmed that these were managed in accordance with relevant EU provisions.

According to FiBL, experience shows that the introduction of an EU-wide standard for the database could significantly improve transparency in the market for organic seeds.

Conclusions
A seed database is in place and derogations for the use of non-organic seed are granted in accordance with EU provisions.

6 Overall Conclusions

Overall a good system for the control of organic production and labelling of organic products is implemented. National legislation is in place and relevant CAs are designated.

In some Länder domestic legislation assigns the power to grant various derogations and authorisations to CBs operating therein, which is not in compliance with relevant EU requirements.

The system of supervision of the CBs is well structured. It is based on office and witness audits carried out independently by the CAs of each Land and LÖK plays an important role in terms of coordination. However, this system has not been sufficient to ensure that all necessary conditions are always satisfied by all CBs.

Controls of operators carried out by the CBs are, overall, satisfactory and based on risk criteria. About 20% of operators are subject to additional inspections (mostly unannounced). Approximately 5% of operators are sampled and the testing of the samples is performed by accredited laboratories. Moreover, a comprehensive list of commercial names of off-farm inputs, such as plant protections products and fertilisers, is publicly available and represents an important tool for CBs’ inspectors during their controls.

The system for imports of organic products provides sufficient guarantees that consignments are verified in accordance with EU provisions.

A catalogue of measures in case of irregularities and infringements has been adopted by a national law in 2012 and harmonising the assessment of non-compliances and the subsequent follow-up measures taken by the CBs.

In the two Länder visited, the CAs do not carry out planned market control on labelling and traceability in those operators which are not subject to controls carried out by CBs

7 Closing Meeting

A closing meeting was held on 21 June 2013 with representatives of the CAs. At this meeting, the FVO team presented the main findings and preliminary conclusions of the audit.

The representatives of the CAs offered some initial comments and provisionally accepted the findings. In particular representatives of both Länder visited explained that the dehorning issue is of
concern and a special working group at national level and an advisory forum (in Lower Saxony) have been set up in order to encourage farmers to give up these practices by breeding dehorned animals and by changing housing conditions.

8 **Recommendations**

The CAs are invited to provide details of the actions taken and planned, including deadlines for their completion ('action plan'), aimed at addressing the recommendations set out below, within 25 working days of receipt of this audit report. The CAs should:

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<th>Nº.</th>
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<tr>
<td>1.</td>
<td>Ensure that in all Länder domestic legislation is not in conflict with EU provision as regards the power to grant derogations and authorisation by CBs.</td>
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<td>2.</td>
<td>Ensure that supervision of CBs are carried out in accordance with requirements laid down by Article 27(8) and (9) of Regulation (EC) No 834/2007.</td>
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<td>3.</td>
<td>Ensure that market control of operators as referred to in Article 28(2) of Regulation (EC) No 834/2007 is carried out by CAs as required by Article 23(5) of the same Regulation and it is risk-based as required by Article 27(3) of Regulation (EC) No 834/2007.</td>
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<td>4.</td>
<td>Ensure that nature and frequency of controls of operators are determined on the basis of an assessment of the risk of occurrence of irregularities and infringements as required by Article 27(3) of Regulation (EC) No 834/2007.</td>
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<td>5.</td>
<td>Ensure that irregularities and infringements affecting the organic status of the products are immediately communicated to CAs as required by Article 30(2) of Regulation (EC) No 834/2007.</td>
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The competent authority's response to the recommendations can be found at:

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<th>Legal Reference</th>
<th>Official Journal</th>
<th>Title</th>
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