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FINAL REPORT OF AN AUDIT

CARRIED OUT IN

ROMANIA

FROM 08 TO 19 APRIL 2013

IN ORDER TO EVALUATE THE CONTROL SYSTEMS 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 is a report on the outcome of a Food and Veterinary Office (FVO) audit in Romania, carried out from 8 to 19 April 2013, under the provisions of Regulation (EC) No 882/2004. The aim of the audit was to evaluate controls on organic production and the labelling of organic products.

Romania has adopted the necessary national provisions to implement certain requirements of the legally-binding European Union (EU) acts regulating the organic production. Competent Authorities (CAs) are clearly designated with control tasks delegated to 14 Control Bodies (CBs). The system for the approval, accreditation and withdrawal of CBs is in accordance with EU provisions and generally works effectively. Two CBs had their approvals withdrawn in 2012.

All organic operators, including some retailers, are registered with the CAs and are subject to controls as required by EU provisions; there is a good system of sanctions in place and irregularities are followed up in a timely manner and sanctions are imposed where required. However, some weaknesses in the control system in place (incomplete inspections carried out at operators' premises, parallel production of conventional and organic crops within the same production units, the use of non-designated laboratories for analyses of samples), do not currently enable the Central Competent Authorities (CCAs) to have a comprehensive overview of domestic production and an effective control over the labelling of domestically-produced organic products.

Little evidence was seen about regular exchange of the relevant information between the CAs. In the case of infringements affecting the organic status of the products, none of the visited CBs immediately informed the CCA, as required by Article 27(5)(d) and by Article 30(2) of Council Regulation (EC) No 834/2007; this finding did not lead to any reaction from the CAs.

One CB visited had not forwarded to the CA the required documentation for all operators under their control. It had directly granted a derogation for retroactive recognition of the conversion period, which was contrary to the EU and national provisions and had never informed the CAs about infringements identified during controls affecting the organic status of the products. In the previous audit carried out by the CAs, this non-compliant failure to provide information on infringement had not been identified.

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

Table of Contents

1	<u>INTRODUCTION</u>	1
2	<u>OBJECTIVES</u>	1
3	<u>LEGAL BASIS</u>	2
4	<u>BACKGROUND</u>	2
5	<u>FINDINGS AND CONCLUSIONS</u>	2
5.1	<u>RELEVANT NATIONAL LEGISLATION AND PROVISIONS</u>	2
5.2	<u>ORGANISATION AND IMPLEMENTATION OF CONTROLS</u>	3
5.2.1	<u>COMPETENT AUTHORITIES AND CONTROL BODIES</u>	3
5.2.2	<u>CONTROLS ON ORGANIC PRODUCTION</u>	8
5.2.3	<u>CONTROLS ON LABELLING AND TRACEABILITY</u>	12
5.2.4	<u>EXCEPTIONAL PRODUCTION RULES AND OTHER DEROGATIONS</u>	13
5.2.5	<u>IMPORTS OF PRODUCTS FROM ORGANIC PRODUCTION</u>	15
5.2.6	<u>PLANNING AND PRIORITISATION OF CONTROLS</u>	16
5.2.7	<u>PROCEDURES FOR PERFORMANCE AND REPORTING OF CONTROL ACTIVITIES</u>	17
5.2.8	<u>CO-ORDINATION AND CO-OPERATION</u>	18
5.2.9	<u>MEASURES TO DEAL WITH INFRINGEMENTS AND IRREGULARITIES</u>	19
5.3	<u>SEED DATABASE</u>	19
6	<u>OVERALL CONCLUSIONS</u>	20
7	<u>CLOSING MEETING</u>	21
8	<u>RECOMMENDATIONS</u>	21
	<u>ANNEX 1 - LEGAL REFERENCES</u>	23

ABBREVIATIONS AND DEFINITIONS USED IN THIS REPORT

Abbreviation	Explanation
APIA	Agency for Payments and Intervention in Agriculture (<i>Agentia de Plati si Interventie pentru Agricultura</i>)
BIPs	Border Inspection Posts
CA(s)	Competent Authoritie(s)
CB(s)	Control Body(ies)
CIS	County Inspection Service
CCA	Central Competent Authority (the Ministry of Agriculture and Rural Development)
DAJ	Directorates for Agriculture in the County offices and the municipality of Bucharest, previously (<i>Directia pentru Agricultura Judetene</i>) previously known as CDARDs: County Directorates for Agriculture and Rural Development
DG(AGRI)	Directorate-General for Agriculture and Rural Development
DGPAS	General Directorate for Agricultural Policies and Strategies (<i>Directia Generala Politici Agricole si Strategii</i>)
DG(SANCO)	Directorate-General for Health and Consumers
DSI	<i>Directorate for State Inspections (Directia Inspectii de Stat)</i>
EU	European Union
FVO	Food and Veterinary Office
MARD	Ministry of Agriculture and Rural Development (the CCA)
MANCP	Multiannual National Control Plan
MS(s)	Member State(s)
NACP	National Authority for Consumer Protection (<i>Autoritatea Nationala pentru Protectia Consumatorilor</i>)
NSVFSA	National Sanitary Veterinary and Food Safety Authority (<i>Autoritatea Nationala Sanitara Veterinara si pentru Siguranta Alimentelor</i>)
PPP(s)	Plant Protection Product(s)
RENAR	Romanian Accreditation Association
TC(s)	Third country(ies)

1 INTRODUCTION

The audit formed part of the FVO planned programme.

The audit took place from 8 to 19 April 2013. The team comprised two auditors from the FVO, a representative of the Directorate General for Agriculture and Rural Development (DG AGRI) and a National Expert from a Member State.

Representatives from the Ministry of Agriculture and Rural Development (MARD), the CCA, accompanied the FVO audit team for the duration of the audit. An opening meeting was held on 8 April 2013 in Bucharest with the CAs. At this meeting, the objectives of, and itinerary for, the audit were confirmed by the FVO audit team and the control systems were described by the authorities.

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

2 OBJECTIVES

The objective of the audit was to assess the official control systems in place for organic production and labelling of organic products in accordance with Council Regulation (EC) No 834/2007.

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

Competent authorities	Central	3	Opening, clarification and closing meetings
	County level	2	Calarasi and Iasi
Control Bodies	Headquarters	3	CB1, CB2 and CB3
	During visits to producers	2	CB4 and CB5: some information was gathered from the inspectors met during visits to two producers
<u>On-Site-Visits:</u>			
County Bucharest		2	1 retail shop (selection of products for traceability) + 1 operator involved in collection of wild berries (CB5)
County Calarasi		1	Aquaculture producer (CB4).
County Iasi		5	2 livestock producers (CB3), 1 beekeeper (CB3), 1 grape producer (CB2) and 1 fruit producer (CB2)

In terms of scope, the audit assessed the performance of the CAs, as well as the organisation of the controls carried out by CBs, including import controls, controls of operators producing, preparing and distributing organic products, controls of 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 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 9 Member States (MSs) and 7 Third Countries (TCs).

Based on a Memorandum of Understanding between the Directorate-General for Health and Consumers (DG SANCO) and the DG (AGRI), the FVO commenced a new series of audits on organic production to MSs and TCs in 2012.

This was the first audit on organic farming in Romania.

The MARD provided the following data and trends about organic farming in Romania:

	2007	2008	2009	2010	2011	2012 *
Operators	3 273	2 901	3 228	3 155	9 703	26 736
Total area (Has) , of which:	131 448	140 132	168 288	182 705	229 947	450 000
Cereals	15 041	25 296	30 582	32 561	40 285	--
Industrial crops	12 000	10 185	15 898	21 994	26 716	--
Vineyards and orchards	855	1 518	1 870	3 093	4 166	8 200
Wild collection	58 728	81 279	88 883	77 294	338 051	520 000
Milking cows (heads)	6 265	4 297	10 821	12 761	19 487	60 000
Sheep & goats (heads)	78 076	125 471	26 674	57 678	130 015	160 000
Beekeepers	726	565	851	867	912	955
Honey (tonness)	1 290	2 357	3 514	3 650	3 048	3 500

* provisional data.

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 MSs shall adopt all measures

of national law necessary to implement legally binding Union acts.

Findings

Several legal provisions provide the necessary framework for the official control system for organic production and labelling of organic products, specifying the CAs' tasks and competences. Details of the specific provisions will be given in the relevant part of this report.

Between 2012 and 2013 this legal framework has been further developed by the adoption of important provisions:

- Order of MARD No 181/2012 of 16 August 2012 (published in the Official Journal on 27 August 2012) laying down rules on the organisation of the system of inspection and certification in organic farming, and repealing the previous Order of MARD No 65/2010. The Order defines the conditions for approval of CBs and their responsibilities, together with those of the CAs; moreover, the conditions for the supervision of CBs, and for the withdrawal of their approval in case of non-compliance, are foreseen.
- Governmental Decision No 131 of 27 March 2013 (published in the Official Journal on 27 March 2013 and entering into force on 27 April 2013) establishes financial sanctions (fines between 10 000 and 35 000 lei) to be applied along the whole chain of production, processing, packaging, transport, storage and distribution, in case of fraudulent use of terms referring to organic production, or when operators do not comply with the rules of organic production, or in case of lack of documentation and thus of traceability of the products. Officials responsible for organic farming at the Directorates for Agriculture (DAJs) in the County offices and the municipality of Bucharest will be responsible for the controls and the application of sanctions.

The FVO audit team was informed at the closing meeting that there is a draft MARD Order to mandate, among other institutes, the Research Institute for Soil and Agrochemistry for establishing positive lists for farm inputs authorised for organic farming, as feed additives, Plant Protection Products (PPPs) and fertilisers; currently the CAs and CBs refer to active substances listed in Annexes to Regulation (EC) No 889/2008 during their controls.

Conclusions

Romania has adopted the necessary provisions to implement legally-binding EU acts relevant to this audit into national law.

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 Council 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

According to Emergency Ordinance No 34 of 17 April 2000, the MARD is the CCA in the field of organic farming.

Within the MARD, the *General Directorate for Agricultural Policies and Strategies (Directia Generala Politici Agricole si Strategii - DGPAS)*, with its *Department for Organic Farming and Processed Products*, is responsible for granting derogations to organic rules in accordance with Articles 36, 37 and 39 of Regulation (EC) No 889/2008 and with Article 22 of Council Regulation (EC) No 834/2007 (the responsibility for allowing the use of seeds and vegetative propagating materials not obtained by organic production methods according to Article 45 of Regulation (EC) No 889/2008, however, has been delegated to the CBs), to approve CBs, to manage the seed database and to participate in on-site audits of approved CBs.

The control and supervision of CBs is carried out by the *Department of Technical Inspections in Organic Farming* within the *Directorate for State Inspections (Directia Inspectii de Stat – DSI)* of the MARD, on the basis of an annual control programme approved by the Minister. This Department along with the DGPAS monitors and centralises the statistical data reported by the CBs.

At CCA level eight officials (of which four are Directors and four are counsellors/advisers) are responsible for the organic farming sector; four of them participated in the Better Training for Safer Food training on organic farming during 2011 and 2012.

Both the DGPAS (with the *Department for Implementation of Policies in Organic Farming*) and the DSI (with the *Department for Technical Inspection in Organic Farming*) are represented in the *County Directorates for Agriculture (Directia pentru Agricultura Judetene - DAJ)* at the territorial level of the 42 County Offices and the Municipality of Bucharest. The DAJs are in charge of annual registration of organic operators, of verifying the performance of the CBs by inspecting a random sample of operators (monthly activity reports are sent to MARD) and for the control on the full chain in organic farming, including the market controls at retail level.

The inspection duties are carried out by 53 DAJ inspectors responsible for organic farming. Two sessions of training were organised by the MARD in 2011 and 2012, in which all 53 inspectors participated; however, the fact that some weaknesses were not identified by the DAJs' inspectors (see 5.2.1.2) may suggest that such inspectors, while having the formal qualification and training, have a relatively low level of knowledge of the relevant rules. No shortage of staff were noticed when two DAJs were visited; however, the new responsibilities attributed to the DAJs by Governmental Decision No 131/2013 and the fact that the annual registration of organic operators remains concentrated in the first five months of the year could make it necessary to hire some extra staff in the future.

Other CAs have limited control responsibilities in the sector of organic farming:

- The National Sanitary Veterinary and Food Safety Authority (NSVFSA), with its Directorate for Co-ordination of Border Inspection Points (BIPs) is responsible for the controls on imported organic products introduced into national territory through the designated BIPs;
- The National Authority for Consumer Protection (NACP) controls compliance of products

with legal provisions by conducting market controls and by sanctioning offences; it also collects samples of foodstuffs for analyses and the verification of labelling requirements. In accordance with the collaboration protocol no. 4511/8793/1851/407/2005 signed with the MARD, the Ministry of Health and the NSVFSA, the NACP carries out market controls, following the Multi-annual National Control Plan (MANCP). When the Governmental Decision No 131/2013 will enter into force, however, the NACP will no longer carry out specific controls on organic products, but will continue to perform routine controls at retail level.

- According to Decision No 759 of 21 July 2010, as amended, the Agency for Payments and Intervention in Agriculture (APIA) is entitled to carry out checks on-the-spot on at least 5% of farmers who have applied for direct support schemes and who are registered as organic producers.
- The Romanian Accreditation Association (RENAR) is responsible for accreditation of CBs according to norm ISO/EN 45011.

Conclusions

A proper control system has been set up and CAs are designated. Control tasks have been delegated to 14 CBs. There is a clear separation of tasks among the CAs. Staff from the CAs met were qualified and trained; however, they had sometimes a relatively low level of knowledge of the relevant rules, suggesting the need for further targeted training¹.

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 satisfied.

Article 27(5) to (7) of Regulation 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 to 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 it, have a sufficient number of suitably qualified and experienced staff and are impartial and free from any conflict of interest as regards the exercise of the tasks delegated to them.

Article 27(8) of Council 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 CA 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

¹ In their comments to the draft report the CCA noted that the training programme for the DAJ inspectors has continued (e.g. 8-12 July 2013) and has targeted the weaknesses identified during the FVO audit.

functions.

Findings

The inspection and certification activities in the organic farming sector are carried out by CBs, approved annually by the MARD; 14 CBs have been approved by the MARD to carry out control and certification activities over organic farming in Romania in 2013.

The procedure for approval, supervision and withdrawal of approval of CBs is provided by the MARD Order No 181/2012.

One of the pre-requisites for approval is the accreditation according to norm EN 45011/ISO 65 granted by the National Romanian Accreditation Body RENAR or another equivalent Accreditation Body established within the EU. All approved CBs were accredited by the RENAR or by an equivalent accreditation entity established in the EU as required by Article 7(1) of Regulation (EC) No 765/2008, except one, which was accredited by the International Organic Accreditation Service. The CCA has recently requested such a CB to be accredited by an accreditation entity established in the EU.

In order to allow newly established CBs to be approved by the CCA, the RENAR has established a specific procedure for granting a “conditional accreditation” valid for two years; this “conditional accreditation” allows the RENAR to evaluate, with a witness assessment, the competency of the CB when starting its activity in the absence of clients. If within two years the CB has no organic operators under contract, or if the witness assessment has had negative results, the “conditional accreditation” is withdrawn. Two CBs have benefited from such a procedure in 2011, one in 2012 and three in 2013.

Accreditation is granted by the RENAR for six specific classes of activities (plant and products derived of, seaweed and products derived of, animals and products derived of, aquaculture animals and products derived of, processed foodstuffs and feedstuffs). During the annual audits, which are included in the four year accreditation cycle, the RENAR may exclude some activities from the scope of accreditation if the conditions are no longer complied with. The FVO audit team saw evidence of the withdrawal of the accreditation for a single class of activity concerning one CB, while another CB had its accreditation suspended for six months and it is currently under examination by the RENAR.

Following examination of the application file presented by the CB, the approval certificate is issued by the MARD. It is valid for four years but the CBs have to present by the end of January each year an update of their file (concerning organigramme, staff, etc.) to the MARD. The list of approved CBs is published annually on the web-site of the MARD.

At the request of the CCA of another MS, the MARD through the DIS carried out an inspection and initiated an investigation of a CB. The relevant documentation of this inspection and investigation, including the relevant findings, was presented to the FVO audit team, together with the decision taken by the MARD to withdraw the approval from that CB.

The MARD withdrew the approval to another CB due to the deadline not being respected for presenting the supporting documentation for the annual update of its file.

The FVO audit team met inspectors from three CBs and checked several personnel files: according to the internal procedures of the CBs visited, inspectors must have a university degree in agriculture, sciences or veterinary medicine. Once they join the CB, they undergo in-house training and accompany experienced inspectors during inspections; eventually, they perform an inspection in the field under the supervision of a senior inspector. Inspectors were also regularly evaluated on their performance by management staff, and refresher courses were provided where necessary. Declarations of impartiality and freedom of conflicts of interest were signed by all inspectors and

were frequently renewed. However, the fact that some weaknesses were not identified by CB inspectors (see 5.2.2.2) may suggest that these inspectors, while having the formal qualification and training, have a relatively low level of knowledge of the relevant rules.

CB1 provided initial training to staff even before their recruitment. According to its procedures, there is a plan to rotate the inspectors in such a way that they would not be visiting the same operator for more than three consecutive years.

CB3 provided documentary evidence that in the case of new recruited staff with none or at least one year of practical experience in the agricultural field, the number of inspections in which the new staff had to accompany experienced inspectors was increased from four to nine (as foreseen in its the internal procedures). Specific training was provided in 2011 to several persons with the aim of creating a “nursery” of inspectors to be later recruited when needed, and there was a plan to rotate inspectors on an annual basis.

The control and supervision of approved CBs is carried out by representatives of the DSI. From 2012 all CBs are audited once a year by the DSI. Copies of the inspection reports were presented to the FVO audit team, and evidence of follow-up checks was also provided.

However, during the visit to CB1, several non-compliances and deviations from the requirements of the EU and national provisions were noted by the FVO audit team; some of them, but not the failure to provide information on infringements, had also been identified during the previous DSI audit. However, this led to only a written warning to the CB, without any sanctions being applied. At the closing meeting, the FVO audit team requested an urgent audit to this CB and the implementation of corrective measures.

As mentioned at point 5.2.1.1 of this report, according to the provisions of MARD Order No 181/2012, the DAJs carry out checks on a minimum of 5% of operators registered in the system and having a valid contract with each CB with the aim of checking the effectiveness of controls carried out by the CBs. Operators to be sampled are selected by the CCA and may include operators sanctioned by the CBs in the previous year, as well as the operators under suspicion/with complaints. The verification check by the DAJ is performed after the operator had registered himself at the DAJ and the annual visit carried out by the CB has taken place. Reports of such inspections were shown to the FVO audit team during the visits to the DAJs, and were comprehensive and well documented. Monthly reports on the progress of the control programme are sent by the DAJ to the CCA.

The FVO audit team checked several files of organic operators at the DAJ level and noted that most of them had declared the presence of areas with conventional and organic crops within the same production unit: these different crops were not cultivated with different varieties that could easily be differentiated, as required by Article 11 of Council Regulation (EC) No 834/2007, and these findings had not been identified as a relevant non-compliance by the DAJs and the CBs.

Conclusions

The system for the approval, accreditation and withdrawal of CBs is in accordance with EU provisions and generally works effectively. One approved CB was not accredited by an accreditation entity established in the EU, which is contrary to requirements of Article 7(1) of Regulation (EC) No 765/2008. Two CBs had their approval withdrawn in 2012. Staff from the CBs met were qualified and trained; however, they sometimes had a relatively low level of knowledge of the relevant rules, suggesting the need for further targeted training. Declarations of impartiality and freedom from conflicts of interest were signed by all inspectors and were frequently renewed.

There is a good system of supervision of CBs, which was in general well documented; however, some systemic issues which weaken the effectiveness of the control system were not identified by

the CCA during its audits. Several non-compliances were noted by the FVO audit team during the visit to a CB.

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 TC products within the meaning of 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 CAs of the MS 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 Council 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.

Findings

According to Order No 219 of 21 March 2007 (as amended by Order No 187 of 24 August 2012) all organic operators are requested to register their activities, not later than 1st June of each year, with the MARD through the DAJs. Operators are requested to indicate the area which is cultivated as organic/in conversion/conventional, with the correspondent culture for the year, and the heads of livestock organic/in conversion/conventional. However, retailers, importers, exporters, traders and processors of organic products, due to their particular activities, can register until 31st December of each year.

Under exceptional circumstances the CCA may authorise late registrations of operators at the DAJs. This was the case in 2012 (MARD notification on 28/08/2012), when thousands of operators had to switch from one CB (which had its approval withdrawn by the CCA) to another. MARD Order No 187/2012 was published on 27/08/2012 setting out specific procedures in this regard.

Conclusions

All Romanian organic operators, including retailers, are registered with the CCA. However, the efficacy of controls carried out by CBs' inspectors could be hampered by delayed registration of operators with the DAJs. One CB did not forward to the CCA the documentary evidences for all operators under control.

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 Commission Regulation (EC) No 889/2008.

Title IV of the same Regulation provides, in accordance with Article 27 of Council Regulation (EC) No 834/2007 for general minimum 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 Regulation (EC) No 889/2008 control authorities or CBs shall carry out at least one physical inspection per year on all operators. Moreover, the control authority or CB shall carry out random control visits, primarily unannounced.

Findings

No inspections can be carried out by CBs until his/her annual registration at the DAJ is renewed; CBs set up a preliminary inspection programme based on the number of operators registered in their databases at the end of the previous year, and such programme become definitive once all operators have registered themselves at the DAJs. CB3 stated that there is a legal obligation for the CBs to carry out the annual inspection within 120 days following the date of registration of the operator at the DAJ, but this was not reported by the other CBs visited.

CBs had carried out annual inspections of all operators which were subject to review by the FVO audit team (site visits and documentary checks). CB2 and CB5 stated that operators have to provide an updated description of their activities (Organic Management Plan) at the latest one week before the annual inspection.

CB1 stated that in 2012 4 479 operators out of 11 399 have been withdrawn from the control system, while CB3 withdrew 836 operators out of 1 469: the main reasons for the withdrawal of operators were missing payment of control fees, missing registration with the DAJs and refusal to submit their undertaking to the control system.

In case of positive outcomes of the inspection visits the CBs issue documentary evidence to the operators, as foreseen by Article 63 of Regulation (EC) No 889/2008. However, the FVO audit team noted that:

- CB1 issues documentary evidence in the format foreseen by Annex XII to Regulation (EC) No 889/2008 only to operators certified as organic or in their second and third year of conversion. Operators in their first year of conversion are provided with a “Notification document” which does not contain all the information required by Article 29(1) of Council Regulation (EC) No 834/2007 and by Article 68 of Regulation (EC) No 889/2008. Moreover, this document is not sent to the CCA for publication on its website, as required by Article 92(a) of Regulation (EC) No 889/2008. This CB has sent to the CCA only 580 documentary evidences out of more than 7 000 operators under its control². Examples of the documentary evidences issued by this CB to the operators in their first year of conversion were provided after the audit by the CCA; these documents were attached to the application for subsidies presented to the APIA. In one case the annual inspection of the operator was not documented;
- CB3 provides certified operators who do not have the intention to sell their products as organic with a “Master Certificate” which contains all the information requested by the model in Annex XII to Regulation (EC) No 889/2008 except the Annex with the list of products certified; this document contains instead the surface under control with the current cultivations. CB3 stated that this model is intended for use by the APIA, and that its use is foreseen by MARD Order No 181; however, evidence was seen by the FVO audit team that operators covered by only a Master Certificate had traded their products as organic in the national market.

Moreover, Article 6(j) of MARD Order No 181/2012 has introduced for all intra-Union trade of organic products from Romania the obligation for the products to be accompanied by a “certificate

² In their comments to the draft report the CCA noted that all “notification documents” have been sent to the CCA and are being posted on the MARD website.

of transaction”: this document shall contain a reference to the commercial document, the code and description of the product and the quantity. CB3, in the framework of its procedures for traceability, also provides in its certificates of transaction the year of production and the parcel of land of origin; the full certificate is thus scanned and linked to a barcode applied to the certificates by a sticker.

- The CCA stated that the use of certificates of transaction is not mandatory, but that its use is also recommended, for trading organic products of agricultural origin within Romania³.

During the checks at the headquarters of the CBs and the witness visits to organic operators, the FVO audit team noted that routine inspections usually included checks of the relevant farm record books (e.g. herd registers, spray diary for PPPs, veterinary treatments records, etc), livestock and housing conditions and purchase/sales records and invoices, and that inspectors followed their check lists. However, the inspections were more an “interview” with the operator rather than an inspection, and physical checks of the premises, including storage of farm inputs/outputs (e.g. fertilisers, PPPs, intermediate/final products, etc.) were not included in the inspection. In addition, the presence of parcels of land in which conventional production takes place together with parcels in which organic/in conversion production is carried out with the same species and varieties was not identified as a non-compliance with the requirements of of Article 11 of Council Regulation (EC) No 834/2007. This was noted in relation to annual crops (e.g. maize, wheat, sunflowers, etc.) and perennial crops (e.g vineyards or alfa-alfa).

Moreover, during the witness audits, the following was noted:

- at the aquaculture operator visited, analysis of water did not include possible contaminants, but only physical parameters that were relevant for potable water. In addition, the potential risk of having upstream non organic operators was not considered by CB inspectors, even when the operator had a written agreement with some of them for mutual information;
- one CB3 inspector demonstrated how compliance with Article 3(2) of Regulation (EC) No 889/2008 (170 kg/ha/year nitrogen) was checked for the livestock breeder visited only at the request of the FVO audit team. The description of the production unit of the same operator was not complete, making it impossible to check the welfare of animals in indoor conditions according to the parameters set in Annex III to Regulation (EC) No 889/2008. Moreover, the CB inspector was unsure about which EU requirements (e.g. Articles 10(2) or 10(4)) had to be applied;
- during the visit to an operator managing an orchard, the treatment with copper sulphate and the quantities purchased (80 Kg) and used (7-8 Kg) were not checked by the CB inspector.

Controls of retailers

The CCA stated that Romania has not made use of Article 28(2) of Council Regulation (EC) No 834/2007 and has not exempted operators who sell products directly to the final consumer or user, provided they do not produce, prepare or 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 from the application of Article 28 of the same Regulation. At the closing meeting, the representatives of the CCA stated that, according to their interpretation, only direct sale of organic products (e.g. shops annexed to farms) could fall under the prescriptions of Article 28(2) of Council Regulation (EC) No 834/2007.

However, during the traceability exercise performed by the CAs (see 5.2.5) it was noted that the retailer involved (a supermarket) was not registered in the system.

The shop visited by the FVO audit team for the purpose of taking samples for the traceability

³ In their comments to the draft report the CCA noted that when amending Order No 181/2012, the MARD will consider to make the certificate of transaction mandatory for all traded products, both in Romania and abroad.

exercise was subject to the control system of CB4; the inspector gave a short overview of the scope of an inspection at a retail shop, including labelling.

Conclusions

All Romanian organic operators, including some retailers, are required to register with the CCA and are subject to controls as required by EU provisions. However, the weaknesses noted (incomplete inspections carried out at operators' premises, presence of the same crops under conventional and organic management within the same production units systematically not addressed by CBs and CAs) seriously hamper the effectiveness of controls carried out by CBs' inspectors and does not bring the control system fully in line with the EU provisions. Moreover, the fact that no inspection can be carried out by the CB inspectors until renewal of registration of operators at the DAJ may affect the continuity of the control system by creating cycles not based on the risk but on the condition of renewal of the operator's registration. Not all documentary evidences are sent by the CBs, and published by the CCA on its website, as required by Article 92(a) of Regulation (EC) No 889/2008.

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.

According to Article 12 of Regulation (EC) No 882/2004 the CA shall designate laboratories that may carry out the analysis of samples taken during official controls.

Findings

The MARD stated that in Romania there were no provisions in place that require CBs to draw up sampling plans, and no guidance has been given by the CCA concerning the analytical scope of the testing. However, as part of their risk assessment of operators, CBs had drawn up sampling plans and had taken a few samples from operators (e.g. CB1 took 16 samples in 2012 out of 6 920 operators, while CB3 had a specific annual sampling plan) when the use of substances not authorised in organic farming was suspected, with the exception of CB2, which had not taken any sample since it started its operations in 2010. The CBs visited used laboratories which were accredited according to norm ISO 17025; however, such laboratories were not designated by the CAs, and no information was provided about the criteria, the assessment and the accreditation for the different testing methods as laid down in the EU feed and food law, as required by Article 12 of Regulation (EC) No 882/2004.

Some samples resulted in positive findings for unauthorised substances (e.g. fluvalinate and coumaphos in honey); in these cases the CB did not issue documentary evidence for the products, but had not always informed the CCA (see 5.2.11).

No samples were taken by the CAs.

Conclusions

CBs take a few samples for laboratory testing when the use of products not authorised in organic production is suspected, in line with requirements of Article 65(2) of Regulation (EC) No 889/2008. CBs are not obliged to send samples to designated laboratories which is contrary to Article 12(1) of Regulation (EC) No 882/2004. No guidance has been given by the CAs concerning the analytical scope of the testing. As a result there is no guarantee that all relevant pesticides are covered by the

analysis and that all laboratories involved in these tests fulfil the requirements of Regulation (EC) No 882/2004. This can weaken the effectiveness of the controls of organic products.

5.2.3 Controls on Labelling and Traceability

Legal Requirements

Article 23 of Council 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 Council 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, preparation and distribution in accordance with Article 18 of Regulation (EC) No 178/2002.

Labelling requirements for organic products are laid down in Title III of Commission Regulation (EC) No 889/2008.

Findings

Controls of labels at operator level

The CAs met during the audit stated that very few operators subject to the official control system are selling their products as organic/in conversion. Out of seven organic operators met by the FVO audit team, only one (involved in the collection of wild berries) had marketed his products as organic, and in this case the inspection carried out by the CB's inspector had also covered labelling of products.

Controls at market level

Since 2012, the market controls are carried out by the NACP, according to the responsibilities established by the *Governmental Decision 700/2012 regarding the organising and operation of NACP*, as well as to the collaboration protocol no. 4511/8793/1851/407/2005 signed by the MARD, the NSVFSA and the NACP. Based on this protocol the NACP carries out market controls, following the MANCP.

According to the data provided by the NACP, in 2012 a specific control on labelling of organic products involved 356 retail operators and approximately 14 tonnes of organic products: 1.6 tonnes of organic products were found to be non-compliant with labelling requirements, in particular those required by Article 24(1) of Council Regulation (EC) No 834/2007. No specific controls on organic products were carried out by NACP in 2010 and 2011.

Following the entering into force of the Governmental Decision No 131/2013 (by 27 April 2013), staff of the DAJs will be responsible for the controls on the whole chain of organic farming up to transport, storage and distribution of organic products, including the controls for the use of the words “ecologic”, “biologic” or “organic” on their labelling, commercial documents or advertising. Thus, the role of the NACP will be limited in the future to market controls on the general labelling of foodstuffs. However, specific instructions for staff of the DAJs have not yet been issued by the the MARD, and meetings are planned with the NACP and the NSVFSA to better co-ordinate the official controls at market level. The MARD stated that specific training for the staff of the DAJs will be planned in the future⁴.

⁴ In their comments to the draft report the CCA noted that during training carried out on 8-12 July 2013 the DAJ advisers with technical inspection responsibilities received written instructions on implementing measures and sanctions provided for in Council Regulation (EC) No 834/2007.

Traceability of organic products

The FVO audit team selected three organic products (hummus, organic cheese flavoured breadsticks and herbal tea) at a retail shop in Bucharest for the purpose of a full traceability exercise from the point of sale to the producers of the organic ingredients in the products. For the three products the qualitative traceability (with some missing information) was established:

- In case of the herbal tea the CAs were able to trace back all ingredients to the producer.
- In the case of the hummus, the CAs identified that the producer was not registered with the DAJ as an organic operator in 2012, and thus the CB could not inspect his premises during the same year. Consequently, when the certificate of conformity expired on 31 December 2012, the operator was not subject to the control system as required by Article 28 of Council Regulation (EC) No 834/2007. The operator then signed a new contract with the CB on 28/01/2013 and underwent a new inspection on 5/04/2013; this inspection found that labels used on the products made reference to the organic production when the operator was not covered by the control system.
- In the case of the organic cheese flavoured breadsticks, documentary evidences were provided for the ingredients. However, some of their Annexes were missing, making the CAs unable to identify which products of agricultural origin were organic/in conversion. In one case it was noted that one supplier had managed parcels of land under organic production together with parcels under conventional production, without demonstrating that different varieties (easily to differentiate) were used.

The full quantitative traceability for two of the products was not provided for the batches subject to the check.

Conclusions

The control system recently included legal provisions to comply with Article 23 of Council Regulation (EC) No 834/2007 regarding the use of the terms referring to organic production. The CAs responsible for market controls have recently been designated, but no instructions or training on how to organise such controls have yet been issued by the MARD to enable the CAs to effectively control the labelling of organic products.

5.2.4 Exceptional Production Rules and other Derogations

Legal Requirements

Where an ingredient of agricultural origin is not included in Annex IX to Commission Regulation (EC) No 889/2008, that 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 Council Regulation (EC) No 834/2007.

Article 28(2) of Council 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.

Findings

According to Emergency Ordinance No 34 of 17 April 2000, operators may use untreated conventional seeds and other vegetative propagating material only when approved by the MARD and having demonstrated that they could not get any suitable material of organic origin in the EU market. Article 6(1)(o) of MARD Order No 181/2012 further provides that such derogations are granted by the CBs, which have the obligation to report annually the number of authorisations granted in the previous year. Evidence was presented that applications from operators were accompanied by two declarations of seed suppliers concerning the unavailability of organic seeds of the requested species/variety, and that operators to whom such a derogation was granted were checked during the annual inspection to verify that the seeds were not treated with unauthorised substances. During the visits to the CBs' headquarters, the FVO audit team noted that farmers who had used seeds with unauthorised substances had their production decertified.

Other derogations may only be granted by the CCA, following the application by the operator to the CB, which has to complete a dossier and give its opinion for the final decision to be taken by the MARD.

According to information provided by the CCA, only the following derogations have been granted in Romania:

- retroactive recognition of conversion period for plant production according to Article 36 of Regulation (EC) No 889/2008. The procedure for granting such a derogation is detailed in Article 7(1)(c) of MARD Order No 181/2012, and requires supporting documentation issued by the competent DAJ demonstrating that PPPs or chemical fertilizers have not been spread on the land, and that no other activities contrary to the organic production rules have occurred in the previous three years (one year in case of natural pastures);
- reduction of conversion period for land associated with organic livestock production according to Article 37 of Regulation (EC) No 889/2008. For both cases, seven derogations have been granted in 2010, eight in 2011 and two in 2012;
- tethering of animals according to Article 39 of Regulation (EC) No 889/2008, to be applied only in holdings with less than 20 cattle heads; 150 of such derogations have been granted in 2010, 2 500 in 2011 and 900 in 2012.

During the annual inspection to the CB1 headquarters in November 2012, DIS inspectors noted that CB had directly retroactively recognised a conversion period for plant production according to Article 36 of Regulation (EC) No 889/2008 without informing the CCA. Following the report of such an inspection, the DSI issued a “written warning” asking the withdrawal of such a derogation by the CB. During the visit by the FVO audit team to the CB's headquarters, no information was provided on other derogations directly granted by the CB or information on the register of issued certificates and other official documentation.

Conclusions

The procedures implementing derogations from organic rules generally resulted in appropriate justification for the use of such derogations. The CA has established provisions that are more detailed than those laid down in EU legislation to support decision-making procedures.

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 Council Regulation (EC) No 834/2007 or the requirements for products providing equivalent guarantees as laid down in Article 33.

Commission Regulation (EC) No 1235/2008 provides detailed rules for the implementation of Council Regulation (EC) No 834/2007 with regards to the arrangements for the imports of organic products from TCs. Chapter 3 of title III of Commission Regulation (EC) No 1235/2008 provides provisions on the release for free circulation of products imported in accordance with Article 33 of Council 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 10 of Commission Regulation (EC) No 1235/2008 provides for a list of recognised CBs and control authorities for the purpose of equivalence in accordance with Article 33(3) of Council Regulation (EC) No 834/2007, published in Annex IV to that Regulation; the list shall provide, among others, the details on the TCs where the products have their origin and the product categories concerned.

Article 19 of Commission Regulation (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

The procedure for authorising imports of organic products from TCs is provided by the MARD Order No 51/2010 (jointly approved by the MARD and the NSVFSA) laying down the rules for import authorisation for organic foodstuffs from TCs. The import authorisation is issued by the MARD, having previously checked the application submitted by the importer and the documents proving the organic status of the imported goods.

Controls on import are carried out at the BIPs by specialised staff of the NSVFSA; according to Article 4 of MARD Order No 51/2010, the release for free circulation on EU territory of organic agri-food products from TCs and equivalent TCs is done after the controls performed at BIPs level. The FVO audit team checked some certificates related to import of organic products from TCs under the transitional rules stipulated in Article 19 of Regulation (EC) No 1235/2008 and noted that boxes 16, 17 and 18 of such documents were endorsed by the CB, the CCA and the first consignee respectively, in accordance with the requirements of Article 13(7)(8)(9) of the same Regulation.

Only five import authorisations have been granted by the MARD between 2011 and 2012.

Conclusions

Overall, the import control system for organic products in place in Romania ensures that products referred to in Article 1(2) of Council Regulation (EC) No 834/2007 are released for free circulation in the EU of a consignment only if the conditions referred to in Article 13(1) of Commission Regulation (EC) No 1235/2008 are met.

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 MANCP.

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' 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 Council 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

Multi-annual National Control Plan

The MANCP 2010-2014 and the most recent annual activity report on the implementation of the MANCP contain information and data on the control system for organic production and labelling of organic products.

Planning and Prioritisation of controls on operators

All control tasks related to organic production and labelling of organic products are covered by a two-tier control system, which includes:

- inspection carried out by CBs' inspectors. An annual inspection visit is planned after the operator has registered with the DAJ. Additional visits are carried out on the basis of risk analysis of the operators carried out by the CBs, taking into account the outcome of the previous controls and particular risk criteria related to the activities of the operator (size, type, market pressure of the products, etc.); however, the presence of derogations granted was not considered a risk factor. No guidance has been given by the CCA to CBs on how to perform such a risk-based analysis. All CBs visited stated that such additional visits are primarily announced and, when they are unannounced, a prior notice of 24 hours is generally given to the operators to allow them to be present during the inspection. CB1 and CB3 stated that additional visits account for 10% of the annual controls, while CB2 performed only 3 additional visits out of the 515 operators under contract. Sampling of the products and the soil is mainly performed if there is a suspicion.
- Inspections carried out by the DAJs on a 5% sample of organic operators under contract with each CB, after the compulsory physical check of the operators for the current year has been carried out by the CBs, with the purpose of verifying the effectiveness of controls performed by CBs' inspectors. The sample of operators to be checked is established by the MARD on the basis of the sanctions applied to operators by the CBs for the activity carried out in the previous year. The lists of such operators are distributed to the DAJs, and the results of the controls are reported monthly to the MARD.

The MARD has set up the *Integrated Information Technology System for Organic Agriculture* (SIIAE), which is scheduled to be operational by the end of 2013; this tool will allow a risk classification of operators on the basis of a number of risk factors by field of activity. In addition, from 2014 onward, MARD will apply the provisions of Commission Implementing Regulation (EU) No 392/2013 with regard to additional random visits to operators.

Conclusions

The MANCP and annual reports contain sufficient information on the control system for organic production, as required by EU provisions.

Most of the CBs visited were planning their controls of operators based on risk criteria, as required by the EU rules; however, the additional inspection visits are primarily announced which is contrary to Article 65(4) of Commission Regulation (EC) No 889/2008. This can have an impact on the effectiveness of controls and can require further guidance by the CCA.

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

According to MARD Order No 181/2012, the DAJs must forward on a monthly basis the lists of all newly registered operators, and by the end of January of each year the statistical data about organic farming and the lists of organic operators suspended and/or withdrawn from the control system.

The CBs must, twice a year (by 31 January and 15 July of each year), send to the MARD the statistical data on the inspection visits carried out, including the new operators and those suspended and/or withdrawn from the control system; templates are provided in Annexes X and XI to MARD Order No 181/2012. According to such statistics, including the additional visits, in 2012 the approved CBs carried out 16 874 inspections on producers, 52 on processors, 64 on traders and 35 on other operators. Moreover, CBs must send annually, by 31 March, the statistical data on surfaces, quantities, heads of livestock under control and derogations granted for use of non organic seeds and propagative materials.

An amendment to MARD Order No 219/2007 is planned which will introduce more obligations to organic operators: in particular, once amended, the Order will require the operators to inform the competent DAJ about their status of suspended and/or withdrawn.

CBs' inspectors have detailed check lists and report templates which provide a good framework for carrying out the required controls.

Conclusions

The CAs and CBs have detailed work instructions and check lists in place, which result in a good framework for carrying out controls.

5.2.8 Co-ordination and Co-operation

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 Council 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 by 31 January each year 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

According to Decision No 759/2010 the MARD shall provide the APIA, by 15 July of each year, the list of farmers who have not complied with the rules of organic production, or who have abandoned the organic production. In turn, the APIA can request clarification to the MARD on organic producers whose situation is unclear; approximately 100 of such requests were forwarded to the MARD in 2012. However, this is limited to the request for clarification about areas subject to the control system. No evidence was provided to the FVO audit team about the transmission to the MARD of the results of the controls carried out by the APIA.

Articles 7 and 8 of MARD Order No 181/2012 provide the obligations and the deadlines for the CBs regarding the transmission of information and communications to the CCA. Moreover, when necessary, the MARD also organises meetings with the CBs. Contrary to the requirements laid down in Article 30(2) of Council Regulation (EC) No 834/2007, none of the CBs visited had informed immediately the CCA about infringements detected at the operators' premises which had affected the organic status of the products. This finding did not lead to any reaction from the CCA.

No evidence was provided to the FVO audit team during audits to their headquarters that CBs could exchange information on request or on their own initiative.

Conclusions

The national legislation and agreements between authorities involved in official controls on the whole chain of organic farming require communication and co-operation between the CAs, as well as between the CBs and the CAs. However, CBs did not exchange regularly any relevant information with the CAs, and infringements affecting the organic status of products were never immediately reported to the CCA, as required by Article 30(2) of Council Regulation (EC) No 834/2007. This must be improved to further enhance the control system for organic production.

5.2.9 Measures to Deal with Infringements and Irregularities

Legal Requirements

According to Article 27(5)(d) of Council 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

Annex II to MARD Order No 181/2012 provides a catalogue of sanctions to be applied by the CBs to organic operators when irregularities and/or infringements to the organic production rules are detected. In case of severe infringements, or of infringements with prolonged effects, the CCA may decide to suspend operators for a maximum of one year, or to withdraw the operators from the control system for a maximum of five years.

The FVO audit team, during its visits to CBs' headquarters, saw evidence of sanctions imposed to non-compliant operators, ranging from a written warning or request for corrective actions up to disqualification of products. A list of organic operators that have been suspended or withdrew from the control system is also available on the MARD website. According to the statistical data provided to the MARD by the CBs, in 2012 the following sanctions have been applied to organic operators subject to the control system: 282 simple remarks, 3 380 requests for improvement, 224 requests for improvement with written warnings, 677 written warnings, 10 disqualifications of the total production, 317 disqualification of areas/products/series of products, 736 suspension of activities/exclusion of operators from the control system.

Article 11 of the same Order establishes the conditions for sanction to be applied by the CCA to the CBs in case of their non compliance with the EU and/or national provisions. In particular, in case of non compliances in respect of Article 27 of Council Regulation (EC) No 834/2007, paragraphs (5), (6), (9), (11), (12) and (14), the CCA may withdraw the approval granted to the CB by issuing a decision signed by the Minister of Agriculture and Rural Development, following a proposal from the DSI (see 5.2.12).

Conclusions

There is a good system of sanctions in place. Irregularities are followed up in a timely manner and sanctions are imposed where required.

5.3 SEED DATABASE

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

Information on the availability of organic seeds and derogations concerning the use of seeds from conventional farming is currently available at the MARD website in excel format. This information is from time to time updated by the CCA.

The MARD has decided to create an Integrated Information System for Organic Farming, which will also integrate, amongst others, the seed database. The contract with the winning tender has been signed, and the system is expected to be fully operational by the end of 2013.

Conclusions

Romania is in the process of establishing a seed database in accordance with Article 48 of Commission Regulation (EC) No 889/2008, which will be fully operational by the end of 2013.

6 OVERALL CONCLUSIONS

Romania has adopted the necessary provisions to implement legally-binding EU acts relevant to this audit into national law, including, very recently, the legal provisions regarding the use of the terms referring to organic production.

CAs are designated with a clear separation of tasks; control tasks are delegated to 14 CBs and the system for their approval, accreditation and withdrawal is in accordance with EU provisions and generally works effectively. Two CBs had their approval withdrawn in 2012. The two-tier system for supervision of CBs was in general well documented; however, one CB visited by the FVO audit team had several non-compliances which were not identified by the CCA during its previous audit.

Staff from the CAs and CBs met were qualified and trained; however, they had sometimes a relatively low level of knowledge of the relevant rules, suggesting the need for further targeted training.

All Romanian organic operators, including some retailers, are required to register with the CCA and are subject to controls as required by EU provisions. However, the weaknesses noted could seriously hamper the effectiveness of controls carried out by CBs' inspectors and not bring the control system fully in line with EU provisions. Moreover, the fact that no inspection can be carried out by the CB inspectors until renewal of registration of operators with the DAJ may affect the continuity of the control system by creating cycles not based on the risk but on the condition of renewal of the operator's registration.

The control system recently included legal provisions to comply with Article 23 of Council Regulation (EC) No 834/2007 regarding the use of the terms referring to organic production. The CAs responsible for market controls have been recently designated, but no instructions or training on how to organise such controls have yet been issued by the MARD to enable the CAs to effectively control the labelling of organic products.

The CBs did not exchange regularly any relevant information with the CAs. Infringements affecting the organic status of products had never been immediately reported to the CCA, which is contrary to Article 30(2) of Council Regulation (EC) No 834/2007.

CBs are not obliged to send samples to designated laboratories, which is contrary to Article 12 of Regulation (EC) No 882/2004, and no guidance has been given by the CAs concerning the analytical scope of the testing; as a result, there is no guarantee that all relevant pesticides are covered by the analysis and that all laboratories involved in these tests fulfil the requirements of Regulation (EC) No 882/2004.

Romania is in the process of establishing a seed database in accordance with Article 48 of Commission Regulation (EC) No 889/2008, which will be fully operational by the end of 2013.

7 CLOSING MEETING

A closing meeting was held on 19 April 2013 with the representatives of the CAs. At this meeting, the FVO audit 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.

8 RECOMMENDATIONS

An action plan describing the action taken or planned in response to the recommendations of this report and setting out a time table to correct the deficiencies found should be presented to the Commission within 25 working days of receipt of the report.

N°.	Recommendation
1.	To ensure that all staff of the Competent Authorities performing official controls receive, for their area of competence, appropriate training enabling them to undertake their duties competently and to carry out official controls (including labelling and market controls) in a consistent manner in accordance with requirements of Article 6(a) of Regulation (EC) No 882/2004.
2.	To ensure that all approved Control Bodies are accredited in accordance with the European Standard EN 45011 or ISO Guide 65 by an accreditation body of the Member State in which they are established or by another accreditation entity established in the European Union, as required by Article 7(1) of Regulation (EC) No 765/2008.
3.	To ensure that approved Control Bodies have suitably trained staff to carry out their duties competently, as required by Article 27(5)(b)(ii) of Council Regulation (EC) No 834/2007.
4.	To ensure that effective and immediate communication between the Control Bodies and the Central Competent Authorities is maintained with regard to infringements affecting the organic status of products/producers, as required by Article 27(5)(d) and Art. 30(2) of Council Regulation (EC) No 834/2007.
5.	To ensure that Control Bodies carry out the delegated tasks properly and effectively, as required by Article 27(8)(b) of Council Regulation (EC) No 834/2007, and that, in particular, the Central Competent Authorities takes immediate cognisance of any case of irregularity or infringement affecting the organic status of a product, as required by Article 30(1) of Council Regulation (EC) No 834/2007.
6.	To ensure that Control Bodies perform controls at operators at the most appropriate time and that measures are in place to verify the relevant information as necessary, as required by Article 4(2)(a) of Regulation (EC) No 882/2004.
7.	To ensure that the additional inspection visits carried out by the Control Bodies are

N°.	Recommendation
	primarily unannounced, as required by Article 65(4) of Commission Regulation (EC) No 889/2008.
8.	To ensure that the requirements with regard parallel production of organic and conventional crops within the same production unit, as laid down in Article 11 of Council Regulation (EC) No 834/2007, are complied with.
9.	To ensure that documentary evidence is provided by the Control Bodies to any operator who is subject to the control system, as required by Article 29(1) of Council Regulation (EC) No 834/2007, using the model set out in Annex XII to Regulation (EC) No 889/2008, as required by Article 92a of the same Regulation.
10.	To ensure that the updated information for all organic operators subject to the control system are made available to the public, as required by Article 92a of Regulation (EC) No 889/2008.
11.	To ensure that only laboratories designated by the Competent Authorities are used by the Competent Authorities and the Control Bodies to carry out the analyses of samples taken during official controls, as required by Article 12(1) of Regulation (EC) No 882/2004.
12.	To establish a computerised seed database in accordance with requirements of Article 48 of Commission Regulation (EC) No 889/2008.

The competent authority's response to the recommendations can be found at:

http://ec.europa.eu/food/fvo/rep_details_en.cfm?rep_inspection_ref=2013-6871

ANNEX 1 - LEGAL REFERENCES

Legal Reference	Official Journal	Title
Reg. 834/2007	OJ L 189, 20.7.2007, p. 1-23	Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91
Reg. 889/2008	OJ L 250, 18.9.2008, p. 1-84	Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control
Reg. 1235/2008	OJ L 334, 12.12.2008, p. 25-52	Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries
Reg. 882/2004	OJ L 165, 30.4.2004, p. 1, Corrected and re-published in OJ L 191, 28.5.2004, p. 1	Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules