



Questions and answers on the organic production control system within the framework of the Commission proposal for a Regulation on official controls and other official activities performed to ensure the application of agri-food chain rules, and in the context of the on-going review of the EU organic production political and legal framework (*Update July 2013*)

Introduction

The **organic production control system**, as defined in Article 27 of Regulation (EC) No 834/2007¹ on organic production and labelling of organic products, **is established in accordance with Regulation (EC) No 882/2004 on official animal, food and feed controls**².

Organic operators and authorities are currently under the **obligation to comply with rules on official controls provided for in two different sets of EU legislation**: 1) the general provisions of Regulation (EC) No 882/2004 **and** 2) the specific control provisions as described in Articles 27 to 31 of Regulation (EC) No 834/2007 and its implementing rules (Regulation (EC) No 889/2008³).

In order, among others, to **tackle gaps and overlaps in requirements across the general and the sectorial provisions related to official controls**, the Commission presented on 6 May 2013 a proposal on official controls and other official activities performed to ensure the application of agri-food chain rules which reviews in particular Regulation (EC) No 882/2004⁴.

¹ 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 - (O.J. L 189, 20.07.2007, p. 1).

² 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 - (OJ L 165, 30.4.2004, p. 1)

³ 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 - (O.J. L 250, 18.09.2008, p. 1) and subsequent amendments.

⁴ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material, plant protection products and amending Regulations (EC) No 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, Regulations (EU) No 1151/2012, [...] /2013 and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation) - COM(2013) 265 final of 06/05/2013.

This proposal includes logically the general principles and rules on official controls as well as the necessary basic specific provisions on organic production controls that are currently spelled-out in Regulation (EC) No 834/2007. The Commission proposal on official controls and other official activities is expected to be adopted by the European Parliament and the Council during the second half of 2015 (ordinary legislative procedure) and will be applicable, for most of its provisions, one year after its entry into force.

In parallel, the **EU political and legal framework on organic production is currently under review**⁵. The works on the review include an evaluation of the currently applicable framework together with an analysis of the impact of options that could be proposed⁶.

Stakeholders participate in the works of the review of the EU organic production legislative framework through different actions including a public consultation that took place from January to April 2013, a series of hearings and specific discussions within the framework of the Advisory Group on organic farming⁷.

Subject to the conclusions of the review process, it is foreseen that a proposal on the EU's political and legal framework on organic production is presented by the Commission in the **first quarter of 2014**⁸.

The specific answers provided below are based on questions received by stakeholders.

Questions & Answers

N°	Questions	Answers
1)	<p><i>The proposal on official controls and other official activities performed to ensure the application of agri-food chain rules risks creating confusion by having two different Commission actions on the same topic.</i></p> <p><i>Currently, the organic control system is being discussed within the review process of Regulation 834/2007 but also within the review process of Regulation 882/2004.</i></p>	<p>All input from stakeholders on the review of the organic production control system is ensured through the on-going review of Regulation (EC) No 834/2007 (for the review process and calendar see 'Introduction' above).</p>

⁵ More information on the review of the EU framework on organic production is provided at http://ec.europa.eu/agriculture/consultations/organic/2013_en.htm

⁶ For information on Impact Assessment: http://ec.europa.eu/governance/impact/index_en.htm

⁷ Organic Farming Advisory Group information available at: http://ec.europa.eu/agriculture/consultations/advisory-groups/organic/index_en.htm

⁸ See http://ec.europa.eu/atwork/pdf/forthcoming_cwp_initiatives_2013_en.pdf

N°	Questions	Answers
2)	<p><i>The proposal on official controls and other official activities performed to ensure the application of agri-food chain rules risks to reduce the process, focus of organic controls and certification – while the clear aim of the sector is to improve it.</i></p>	<p>The Commission proposal on official controls and other official activities performed to ensure the application of agri-food chain rules (which reviews in particular Regulation (EC) No 882/2004) does not aim <i>per se</i> to bring any specific change to the currently applicable provisions on organic production controls.</p> <p>The Regulation proposal defines official controls as "any form of control that competent authorities perform for the verification of compliance with [agri-food chain rules]" and confirms the risk basis of official controls. The focus of official controls depends thus on the rules to be verified and the risks identified.</p> <p>Potential changes or improvements of the organic production control system may stem from the review of the EU's political and legal framework on organic production.</p> <p>However, as the organic production control system is set-up in accordance with Regulation (EC) No 882/2004, changes that may be brought by the proposal to Regulation (EC) No 882/2004 may also concern the organic production control system (e.g. the increased transparency on the official controls performed, their outcome and their follow-up).</p>
3)	<p><i>There is a risk that organic controls will be transferred to the food and feed control sector.</i></p>	<p>The proposal on official controls and other official activities performed to ensure the application of agri-food chain rules which in particular reviews Regulation (EC) No 882/2004, does not prevent Member States from designating different competent authorities, i.e. competent authorities for the organic production. The proposal (Article 3) refers to competent authority or authorities "for each of the areas" covered. The Commission proposal does not bring any change on this respect.</p>

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		<p>It should however be reminded that organic operators, in their capacity of food or feed producers have, anyway, to comply with all relevant EU legislation on food or feed.</p>
4)	<p><i>Separating organic controls and official organic certification into two different bodies is expected to reduce the effectiveness and synergies of organic and other controls as well as of the certification decision making process.</i></p>	<p>There is no intention to separate official controls and official organic certification. Articles 25 to 29 of Commission's Regulation proposal (together with Article 153(1)(a)(iii)) allows for the delegation of specific tasks to delegated or control bodies and general rules on official certification are laid down in Articles 85 to 90.</p>
5)	<p><i>The proposal risks not to improve the current situation by creating new sources of non-harmonisation among certifiers, competent authorities and accreditation bodies – although it bears an opportunity for harmonisation.</i> <i>To improve the effectiveness of official controls on organic products, there is a need for a more harmonised approach by the MS and their competent authorities. The proposal does not facilitate nor improve a harmonised approach on organic controls in the EU because it allows competent authorities to create their own particular rules on organic official controls and exemptions of operators.</i></p>	<p>The Commission's proposal on official controls and other official activities performed to ensure the application of agri-food chain rules refers explicitly in its Article 1(2)(j) to the rules on organic production as being part of the rules whose application is verified by the official controls subject of the proposal.</p> <p>The proposal aims precisely to tackle current gaps and overlaps in requirements across the general and the sector provisions on official controls.</p> <p>General rules on official controls are specified in the Regulation proposal. Sector specific rules on official controls will be laid down, where necessary, in the delegated and implementing acts foreseen in the proposal (in particular those under its Article 23). These will be adopted with the aim to bring the necessary harmonisation while at the same time preserving the specificities of each sector such as the organic one.</p>

N°	Questions	Answers
6)	<p><i>According to the proposal on official controls and other official activities performed to ensure the application of agri-food chain rule, control bodies will no longer be able to take certification decisions (sanctions and corrective actions, downgrading of products etc.)</i></p>	<p>The Regulation proposal on official controls and other official activities performed to ensure the application of agri-food chain rules generally excludes the possibility to delegate the decisions on measures carried out to ensure that operators remedy identified non-compliances. However, Article 25(2) second paragraph of the proposal foresees a specific derogation for the organic sector.</p> <p>Article 23(2)(e) of the Regulation proposal allows furthermore for the adoption, through a delegated act, of specific criteria relating to the measures to be taken in case of the occurrence of non-compliances.</p>
7)	<p><i>Instead of the current accreditation in accordance with EN 45011, the Commission proposal on official controls and other official activities performed to ensure the application of agri-food chain rules foresees the mandatory accreditation of control bodies (delegated bodies) in accordance with ISO/IEC 17020.</i></p>	<p>Article 26(1)(b)(iv) of the proposal on official controls and other official activities performed to ensure the application of agri-food chain rules specifies that delegated bodies must be accredited in accordance with ISO/IEC 17020 or another standard if more relevant.</p> <p>The appropriate standard for delegated or control bodies in the organic sector is EN 45011. This can be specified if necessary in the delegated act foreseen under Article 23(2)(f) of the proposal.</p>
8)	<p><i>Due to the Commission proposal on official controls and other official activities performed to ensure the application of agri-food chain rules, the annual on-site verification of compliance will disappear and competent authorities may exempt small operators from official controls.</i></p>	<p>As mentioned above, the Commission proposal does not aim <i>per se</i> to bring changes to the current basic characteristics of the organic production control system (see reply to question 2).</p> <p>Article 23(2) of Commission's proposal allows for the adoption of a series of delegated acts in order to define issues such as the frequency of official controls.</p>

N°	Questions	Answers
9)	<p><i>What will be the status of small operators under the Commission proposal on official controls and other official activities performed to ensure the application of agri-food chain rules?</i></p>	<p>The Regulation proposal on official controls and other official activities performed to ensure the application of agri-food chain rules does not exempt small operators from being controlled by competent authorities. Article 23(2)(c) allows however for the adoption of delegated acts on cases where and conditions under which organic operators are to be exempted. Again, such a decision may only result from the on-going review of the EU's political and legal framework on organic production.</p> <p>NB: according to the current EU organic rules, Member States may exempt, under specific conditions, retailers from being controlled (Article 28(2) of Regulation (EC) No 834/2007).</p> <p>(see also Working Document on Controls).</p>