PART A

Descriptive part
Chapter 1

Evaluation of the EU legislation on organic farming – An introduction

1.1 Background and aims of the evaluation

For many decades, the European organic sector was characterised by a system of voluntary private standards and third party inspection of those farms who wanted to use these organic labels. This changed when European governments introduced national legislation on organic farming in the 1980s. France was the first country to introduce such a legal framework in 1980, followed by Austria in 1983 and Denmark in 1987. The aims of these state rules were to protect consumers from misleading claims and creating a level playing field for organic producers.

In response to the growing consumer demand for certified organic products, and with the aims of protecting organic farming, as well as ensuring fair competition between producers, and transparency at all stages of production and processing across the EU, the European Council introduced in 1991 an EU-wide definition of organic farming with the Regulation (EEC) 2092/91. The regulation sets out rules for organic crop production with reference to agricultural products and foodstuffs. The most commonly used terms in the different European countries, e.g. organic, biological, and ecological, were protected. Rules on organic livestock and foodstuffs were introduced eight years later with Regulation (EC) 1804/1999, supplementing the existing organic regulation. These legislative measures are understood as one of the most important driving forces for the organic farming sector in the EU (Dabbert, 2001). The regulatory framework facilitated trade of organic products within and outside the EU and provided the possibility to address organic farming specifically under the European agri-environment measure (Regulation (EEC) 2078/92).

Despite EU-wide rules for organic farming, internal trade of organic products was still hampered mainly due to many different national and private standards and their implementation (European Commission, 2004). To minimise this problem, the European Commission recognised the need to develop common objectives, a multilateral concept of equivalence and a further harmonisation of inspection requirements, as well as to put more emphasis on the EU organic logo. In the

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1 Full references of all regulations mentioned in this report are given in the List of References.
2 Different spellings and the terms used in other European languages were also included in the legislation.
3 The European Commission is hereinafter also called Commission.
European Action Plan for Organic Food and Farming (EOAP)\(^4\) of 2004, the European Commission proposed therefore to improve and reinforce the Community’s organic farming standards as well as import and inspection requirements, and specified a number of actions with respect to standards and inspection (ibid.). Consequently, Regulation (EEC) 2092/91 was revised, which resulted in the adoption of the new Council Regulation (EC) 834/2007\(^5\) in 2007 and the Commission Implementing Regulation (EC) 889/2008 (production and labelling) and (EC) 1235/2008 (import) in 2008. This new organic farming legislation, which came into force on the 1\(^{st}\) of January 2009, describes the underlying objectives and principles of organic agriculture, sets organic production standards and defines the control and labelling requirements. Since then the legislative framework has been supplemented, e.g. by rules on aquaculture in 2009 (Regulation (EC) 710/2009) and wine production in 2012 (Regulation (EC) 203/2012), amending Regulation (EC) 889/2008.

In view of these changes to the regulatory framework and the dynamic development of the organic farming sector, the question arises, to what extent the new organic farming legislation has proven to be adequate to achieve its objectives and to what extent has it contributed to a sustainable development of organic farming in the EU. Against this background, this evaluation aims to examine the adequacy\(^6\) and effectiveness\(^7\) of the Council Regulation (EC) 834/2007 and its implementing rules with respect to:

- ensuring the effective functioning of the internal market, guaranteeing fair competition and to ensuring consumers’ confidence (i.e. with respect to the global objectives of the Regulation as set out in Article 1)
- establishing a sustainable management system for agriculture, producing products of high quality and producing a wide variety of foods and other agricultural products that respond to consumers’ demand for goods produced by the use of processes that do not harm the environment, human health, plant health or animal health and welfare (i.e. with respect to the objectives of organic production as set out in Article 3).

More specifically, this work addresses eight evaluation questions that are grouped under seven evaluation themes (see Table 1.1). In answering the evaluation questions, the role of each of the legislative measures applied within the organic legislative framework is assessed. The examination period is mainly from 2009 onwards. The period since 2000 is used as a reference to cover the situation governed by the previous legislation on organic farming. Furthermore, the period from 2013 onwards is taken into consideration to evaluate the adequacy and justification of phasing out exceptional production rules and the abolition of the import authorisations for

\(^4\) The action plan is hereinafter also called EU Organic Action Plan (EOAP).
\(^5\) Council Regulation (EC) 834/2007 is hereinafter also called Regulation.
\(^6\) Adequacy is defined here as the state of being sufficient in relation to intervention’s objectives.
\(^7\) Effectiveness is defined here as the extent to which objectives pursued by an intervention are achieved.
products from third countries, as well as to contextualise the EU added value of the organic farming legislation.

The evaluation itself is carried out in the framework of the Regulatory Fitness and Performance Programme (REFIT) of the European Commission. The programme aims to identify burdens, inconsistencies, gaps and ineffective measures, in order to make EU legislation more effective and efficient in achieving its public policy objectives (European Commission, 2012).

Table 1.1: Overview of evaluation themes and Evaluation Questions (EQ)

<table>
<thead>
<tr>
<th>Theme</th>
<th>Evaluation Questions</th>
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<tbody>
<tr>
<td>Theme 1</td>
<td>To what extent is the <strong>scope of the Regulation</strong> adequate to match the current needs of the organic farming supply and distribution chain and those of the consumers of organic products? (EQ 1)</td>
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<tr>
<td>Theme 2</td>
<td>To what extent have the <strong>organic production rules</strong> been adequate to achieve the global objectives of the Regulation and the general objectives of organic production, as laid down in the regulation? (EQ 2)</td>
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<tr>
<td>Theme 3</td>
<td>To what extent has the overall <strong>control system</strong> of organic farming, from the Commission, through Member States competent authorities, control authorities, control bodies to accreditation bodies, been adequate to achieve the global objectives of the Regulation? (EQ 3)</td>
</tr>
<tr>
<td>Theme 4</td>
<td>To what extent have the <strong>import rules</strong> been adequate to achieve the global objectives of the Regulation? (EQ 4)</td>
</tr>
<tr>
<td>Theme 5</td>
<td>To what extent is the concept of organic farming understood by the <strong>consumers</strong> in the EU? (EQ 5)</td>
</tr>
<tr>
<td>Theme 6</td>
<td>To what extent has the current legislative framework for organic farming contributed to achieving a <strong>simplified administration</strong> and management of the legislative measures applied to the organic sector as compared to the legal framework applicable before 2009? (EQ 6)</td>
</tr>
</tbody>
</table>
| Theme 7 | To what extent has the EU legislative framework for organic farming created **EU added value**, notably by introducing common rules on the internal market? (EQ 7)  
To what extent has the EU legislative framework for organic farming contributed to the **sustainable development of the organic farming sector**? (EQ 8) |

Source: Own presentation.

### 1.2 Methodologies and methodological challenges

#### 1.2.1 General considerations

Evaluating the degree of adequacy of the Regulation, and its implementing rules, ideally requires a) to measure the distinct effects of the rules on the objectives and b) to have clear thresholds indicating whether an impact is adequate and effective or not. These requirements are however not always given. Therefore this evaluation like many other evaluation exercises is facing two main challenges.

First, quantitative methods using robust data would be well suited to measure the effects of the rules on the objectives. In the case of organic farming legislation, however, such data is rarely
available. Also, it is worth noting that quantitative approaches alone are often less effective for understanding the mechanisms by which a particular provision results in the observed impact. Thus there is a danger to measure an impact but not to understand it fully, which is described in social science as a Cartesian trap. To avoid this, a mix of quantitative and qualitative methods is often used, which may result in a more comprehensive evaluation of an intervention (Rao and Woolcock, 2003; Bamberger et al., 2010).

And second, if it is possible to measure the effects of rules on the objectives, any judgement of their adequacy requires clear thresholds to qualify them. The challenge of this evaluation is that the objectives of organic production and the objectives of the Regulation use several ill-defined terms and the Regulation does not suggest any thresholds that clearly indicate whether an objective is achieved or not. For example, the Regulation lays down that organic production aims to establish a sustainable management system for agriculture that contributes to a high level of biological diversity, but it does not provide any definition as to what a high level of biodiversity means and also does not suggest any quantitative thresholds that could be used.

To address these challenges, the following common evaluation approach was applied. First, judgement criteria were deduced for each evaluation question – either from the intervention logic of the organic farming legislation (see Chapter 5) or the background of the evaluation question. Each criteria was operationalized by specifying several indicators and (if applicable) thresholds as well as by defining relevant terms. This evaluation used available statistics, the views of stakeholders and experts, the findings from documentary analyses (including scientific evidence where it exists), the outcomes from specific case studies and surveys as data sources. To arrive at the judgement these different pieces of information were subsequently triangulated and critically reflected following usual approaches in social science (Alvesson and Sköldberg, 2000; Silvermann, 2010). In the case of contrary results, reasoning was given, why certain results were given a higher priority or a greater importance than others. Finally, based on the judgement, recommendations were developed that show in which area the EU legislation on organic farming could be improved to ensure its adequacy and to improve its effectiveness.

### 1.2.2 Tools used for data gathering

A range of different data and information sources were used for the different evaluation questions (see Figure 1.1) that are described in more detail below.
Figure 1.1: Overview of tools used to gather data and information for answering the evaluation questions (EQ)

<table>
<thead>
<tr>
<th>EQ 1</th>
<th>EQ 2</th>
<th>EQ 3</th>
<th>EQ 4</th>
<th>EQ 5</th>
<th>EQ 6</th>
<th>EQ 7</th>
<th>EQ 8</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scope</td>
<td>Production</td>
<td>rules</td>
<td>Control</td>
<td>system</td>
<td>Import</td>
<td>regime</td>
<td>Consumer</td>
</tr>
</tbody>
</table>

National case studies

In order to gain an in-depth knowledge of the implementation and adequacy of the organic farming legislation in individual Member States, national data was collected in 13 EU Member States (Austria, Bulgaria, Czech Republic, Denmark, Estonia, France, Germany, Italy, Netherlands, Poland, Slovenia, Spain, United Kingdom). The choice of countries reflects a) different sizes of the national organic sector (share of organic land area, share of organic farms), b) different market shares (total and per capita), c) different certification and control systems, and d) a balanced representation of EU-15 and EU-12 Member States. Since the evaluation started in 2012, Croatia has not been considered.

Data collection included:

- national documents such as regulations, selected private standards, national scientific and grey literature and documents describing the set-up of the national control system;
• semi-structured interviews with national organic stakeholders\(^9\) to gather their views in relation to the scope of the Regulation, implementation of the rules in certain production sectors, control system, potentials for simplification, EU added value of the Regulation and sustainable development of the organic sector;

• data and information on a) GMO contamination and availability of GMO-free additives, b) certification and control systems and c) products labelled as organic in the market originating from non-food scopes.

**Fraud case study**

In order to understand how effective the control system prevents fraud, and thus ensures consumer confidence and fair competition on the organic marketplace, information and data have been collected about the fraud case ‘Gatto con gli stivali’ affecting a number of EU Member States. ‘Gatto con gli stivali’ was one of the largest fraud cases in the EU concerning organic products covered by the EU legislation. Approximately 703 000 tons of falsely-labelled conventional products were sold as organic, corresponding with an estimated financial damage of around 220 million EUR.

In a first step, key deficiencies were identified, described and related to the responsibilities of relevant actors of the control system (control bodies, competent authorities, accreditation bodies, EU Commission), by analysing:

• several public documents such as press releases, press reports and case summaries, as well as material from two workshops\(^{10}\) organised to analyse and discuss the causes and consequences of the fraud case;

• several unpublished internal documents (minutes from meetings, internal communications) exchanged between operators, control bodies and authorities in different EU Member States and email exchanges on the fraud case;

• interviews with stakeholders (representatives of the Italian fiscal police, control bodies, competent authorities and operators in different Member States of the European Union).

To identify which results of the case studies are specific to the fraud case and which results can be generalised, in a second step, personal or telephone interviews and email consultations were conducted with key-actors from the European Organic Certifiers Council (EOCC), Italian

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\(^9\) In total 246 interviews were carried out with representatives of the following target groups: competent authorities, authority for/ ministry of agriculture, authority for/ ministry of environment, authority for/ ministry of consumers affairs, organic producer organization, farm advisor, scientist, control bodies, environmental NGO, organic retailer, organic mass caterer, companies dealing with cosmetics/textiles, product-specific business groups, product-specific wholesaler, trader or processor.

Federation of Organic and Biodynamic Agriculture (FEDERBIO), IFOAM EU Group, competent authorities of different Member States (Austria, Germany, Italy) and representatives of the EU Commission.

Import case study

The import case study was carried out to understand the adequacy and effectiveness of a) the procedures set-out in the import regime, b) the supervision of recognised control bodies and control authorities and c) the control measures applied and the control system in place in third countries. Three relevant cases of organic products imported from countries outside of the European Union were chosen for the case study: Organic bananas from Latin America, organic soybeans from South-Eastern Europe and organic tea from Asia. The three products were selected, because they all were affected by frequently occurring residue cases (pesticides, GMOs) in the years 2010 to 2012 and all three were of high market importance.

In a first step, based on internal documents of a control body, three exemplary suspect cases under the current import regime were analysed, with regard to key deficiencies of the control system currently implemented in third countries, the supervision currently taking place and the procedures of the applied import regime.

In a second step, the results of the analysis were discussed and reflected with key-experts and stakeholders involved in controls and trade with organic products from third countries. Furthermore, preventive measures addressing potential risks associated to imported products were derived as well as targeted control measures that could be implemented by control bodies during their control visits in third countries.

Documentary analysis (in addition to case studies)

In addition to documents analysed and reviewed in the case studies, a large number of further documents were reviewed, such as:

- international standards for textiles and cosmetics (GOTS, ISO, Nature, COSMOS), as well as EU regulations on textiles, cosmetics and eco-labels;
- scientific publications on the impact of organic production rules on the environment and animal welfare;
- publications on the effectiveness of (organic) certification systems, including material provided from the Commission with respect to Member State and stakeholder responses to the Commission survey on the application of Council Regulation (EC) 834/2007, as well as publication and internal working documents of the EU-funded research project CERTCOST
- publications dealing with the EU import regime for organic products;
• published studies that deal with the recognition of the new EU logo by consumers, as well as material from the CERTCOST-project on product labelling and willingness-to-pay;
• documents, academic articles and policy studies that a) deal with relevant EU priorities and strategies, b) address impacts of organic farming relating to EU priority areas or c) focus on the sustainable development of the organic sector.

Semi-structured interviews (in addition to case studies)
In addition to interviews carried out in the case studies, additional key persons were interviewed to collect specific information on the adequacy and effectiveness of the Regulation. Interviews were carried out with:
• representatives of the European Commission DG Agriculture and Rural Development (Organic Farming Unit) to get insights on a) the import regime (approval of third countries, approval of control bodies, follow-up in case of imported products which do not comply with the rules), b) control system (supervision and exchange of information with Member States), c) production rules (sustainable management, exceptional rules) and d) the results of the Irish Presidency Questionnaire on Council Regulation (EC) 834/2007 on organic production and labelling of organic products;
• importers to examine the effectiveness of the import regime. A special focus was laid on the question whether there is any difference experienced so far between the old and the new import system, as well as on the question whether there are differences perceived between products imported from countries listed on the Third Country List and products from countries not listed;
• control bodies already approved under the revised import scheme, to get an insight in first experience with the new import system and to cross-check the results gathered so far;
• representative of UNCTAD, to examine the effectiveness of the import regime and crosscheck results from the analysis;
• members of the EU Expert Group for Technical Advice on Organic Production (EGTOP) to explore the potential of further simplification of selected rules.

Stakeholder survey
In order to collect the views from a larger number of different actors and to verify information gained through the bibliographic research, a web-based stakeholder survey was conducted. The questionnaire included closed and open questions. For the survey, two existing address databases (maintained by FiBL and by the Anti-Fraud Initiative) of 1 025 stakeholders were used. In total, 265 stakeholders responded to the stakeholder survey, which corresponds to a response rate of 26%. A majority of the responses came from Germany (75 responses), Italy (38), the UK (19), Austria (18), Czech Republic (15), Belgium (15), France (13) and the Netherlands (10). About one-quarter of respondents were representatives of control bodies or control authorities.
respectively, and another quarter from organic operators. The stakeholder survey was mainly used to:

- gather data about the adequacy and effectiveness of the organic control system and the impacts of exceptions;
- assess whether the procedures of the import regulation from third countries represent administrative barriers for EU companies;
- explore whether procedures of the import regime are adequate and effective to assure conformity of organic products imported from third countries with EU requirements;
- gather views from stakeholders on the adequacy of the scope of the Regulation and the degree of simplification achieved by the current legislative framework as compared to the legal framework applicable before 2009.

**Consumer survey**

In order to fill the gaps in the literature regarding the degree of knowledge on, and the perception of the EU organic logo, a web-based consumer survey was conducted in six Member States. Questions covered knowledge of organic farming, recognition and knowledge of the EU logo and the compulsory indications, their contribution to ensuring consumer confidence and related attitudes. The selection of study countries took market size and different organic ‘labelling traditions’ into account and included Member States where a) the old European logo was the most important organic logo and no well-known national logos exist (Italy and Poland), b) countries where the old EU logo was used additionally to an important national logo (Estonia and France) and c) countries where the old EU logo was of minor relevance and well-established national logos exist which are appreciated by consumers (Germany and UK) (see e.g. Padel, 2010 for details).

The recruitment of participants was conducted by one market research agency in all six countries. In total, 3,000 interviews were included in the analysis, 500 in each study country. A gender quota was set in advance to one third men and two third women, which is frequently observed when analysing food purchase behaviour (Spiller et al., 2004; Zander and Hamm, 2010). The age of the participants was between 18 and 75 years. On average, about one fifth of the respondents stated that they never or almost never buy organic food. About half of them buy organic food occasionally and about 30% buy organic food regularly, at least once per week (Table 1.2).
Table 1.2: Share of participants in different consumption classes (in percentage)

<table>
<thead>
<tr>
<th></th>
<th>All</th>
<th>DE</th>
<th>EE</th>
<th>FR</th>
<th>IT</th>
<th>PL</th>
<th>UK</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Non-organic consumers</strong></td>
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<tr>
<td>never/almost never</td>
<td>21</td>
<td>19</td>
<td>20</td>
<td>24</td>
<td>19</td>
<td>17</td>
<td>25</td>
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<tr>
<td><strong>Occasional organic consumers</strong></td>
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<tr>
<td>less than once per month</td>
<td>50</td>
<td>40</td>
<td>57</td>
<td>51</td>
<td>52</td>
<td>54</td>
<td>48</td>
</tr>
<tr>
<td>about once or twice per month</td>
<td>31</td>
<td>24</td>
<td>35</td>
<td>29</td>
<td>33</td>
<td>34</td>
<td>29</td>
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<tr>
<td><strong>Regular organic consumers</strong></td>
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<tr>
<td>about once per week</td>
<td>29</td>
<td>41</td>
<td>22</td>
<td>26</td>
<td>29</td>
<td>29</td>
<td>26</td>
</tr>
<tr>
<td>several times per week</td>
<td>7</td>
<td>10</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>9</td>
<td>5</td>
</tr>
</tbody>
</table>

Question: How often do you buy organic food?

Source: Own presentation based on the results of the consumer survey.

1.3 Structure of the evaluation report

This evaluation report is divided into three parts: a) descriptive part, b) answers to the eight evaluation questions and c) overall conclusions and recommendations.

Part A (descriptive part) provides a concise description of the development of the EU organic sector in the context of the world market of organic products (Chapter 3), support measures applied to the EU organic farming sector (Chapter 4) and the applicable organic farming legislation and its development. The descriptive part includes also a model of the intervention logic of the Regulation, showing the relationship between the legislative measures, the expected impacts, the objectives of the measures, and the objectives of the legislation as a whole and in relation to other relevant policies (Chapter 5).

In Part B (replies to the eight evaluation questions), the adequacy of the scope of the Regulation (Chapter 6), the production and processing rules (Chapter 7), the overall control system (Chapter 8) and the import regime (Chapter 9) is examined. Furthermore, the consumer knowledge about the concept of organic farming (Chapter 10) and the degree of simplification of the current legislative measures compared to the legal framework applicable before 2009 (Chapter 11) is analysed. At the end of Part B, two overarching issues of the Regulation are addressed: the creation of EU added value through the legislative framework for organic farming at EU level (Chapter 12) and the contribution of the Regulation to the sustainable development of the organic farming sector (Chapter 13). The answer to each evaluation question includes a description of the context of the question, the judgement criteria and data sources used, a detailed description of the results including the reasoning followed in the analysis, as well as the resulting judgement for each question.
In Part C, **overall conclusions and policy recommendations** are presented (Chapter 14) based on the descriptive part and the answers to all evaluation questions. The overall conclusions indicate in which way the existing legislative framework could be further developed to ensure that the objectives of the Regulation and the objectives of organic production are achieved in an adequate and effective way.