

Chapter 8

Adequacy of the overall control system

8.1 Introduction

Evaluation Question 3

To what extent has the overall control system 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?

In answering this question the following aspects needs to be examined in more detail:

- *Supervisory role of the Commission over the Member States control systems;*
- *Supervisory role of the Member States over control bodies;*
- *Exchange of information between the Commission and the Member States, and within the Member States;*
- *Adequacy of the annual inspection requirement and application of risk based assessment for the nature and frequency of controls of organic operators;*
- *Adequacy of distribution of responsibilities among the main actors involved in the control system, including application of the accreditation system;*
- *Adequacy and justification of the exemptions from the control system, notable regarding the retail sector and their application by the Member States.*

In order to ensure that consumers' confidence in organic products is justified, and thus that organic farmers, processors and importers comply with the rules of organic farming, an effective control inspection system has to be in place in all Member States. For this reason, specific rules of the overall control system were laid down in Council Regulation (EC) 834/2007 (Article 27 to 31). As described in Chapter 3, the overall control system consists of two elements: a) the actual control of organic operators carried out by private accredited control bodies or designated public control authorities and b) the public surveillance system, which encompasses the entire EU framework of activities of national competent authorities and accreditation bodies to supervise and monitor the organic control system at the level of the control bodies.

Against this background the aim of Evaluation Question 3 is to understand whether the instruments provided by Council Regulation (EC) 834/2007, targeted at the organic control system, are adequate for achieving the global objectives of the Regulation, i.e. for ensuring the

effective functioning of the internal market, guaranteeing fair competition, ensuring consumer confidence and protecting consumer interests. More specifically the aim is to explore whether the organic control system is adequate to ensure organic operators' compliance with the organic rules so that the entire organic sector can function. If the overall control system is not effective in ensuring full compliance with the rules in all Member States a) fair competition among organic farmers within the EU and b) consumers' confidence in organic products is not guaranteed.

This chapter is organised as follows: First of all the judgement criteria, the respective indicators used and the information basis to answer the evaluation question are described. Subsequently, the results from the different evaluation tools and thus the empirical basis for answering the evaluation question are presented. Finally, the judgment and conclusion are presented.

8.2 Approach

Setting up a control system entails putting in place processes and procedures to monitor and verify that the requirements laid down in the EU legislation on organic farming are fulfilled by organic operators in all Member States at all stages of production, processing, import and distribution and that they work in practise as intended. This involves, first of all, that the procedures foreseen in a control system are adequate and thus reasonably sufficient to allow for such verification and monitoring. Secondly, from the perspective of the European Union to ensure fair competition and consumer confidence, the control procedures should be implemented consistently and effectively to ensure comparable results across all Member States. Thus, 'adequacy' addresses in this context whether the procedures and processes of the control system are reasonably sufficient without being abundant, while 'effectiveness' means whether the procedures and processes of the control system are suitable to produce the desired outcome. Therefore, Evaluation Question 3 was answered on the basis of two underlying judgement criteria:

(1) **The control system is (or is not) adequate to ensure organic operators' compliance with the organic production rules**

The prerequisite for a functioning control system that guarantees both fair competition and consumer confidence is that the procedures implemented are adequate and effective to ensure organic operators' compliance with the organic production rules. Against this background the following aspects were analysed:

- the adequacy of the annual inspection requirements;
- the adequacy of the additional risk-based inspections of organic operators;
- the adequacy and justification of Article 28(2) of Council Regulation (EC) 834/2007, which allows Member States to exempt operators that sell products directly to the final consumer or user from the control system.

The information basis for this judgement criterion builds on interviews with national competent authorities and control bodies from 13 Member States, the web-based stakeholder survey¹, re-analysis of data from the EU-funded research project CERTCOST² and the review of scientific literature and public documents.

(2) The procedures of the control system as described in Article 27-31 of Council Regulation (EC) 834/2007 are (or are not) effectively implemented in Member States

To ensure fair competition for organic operators on the one hand and to guarantee consumers' trust on the other, in each Member State the control system needs to be consistently and effectively implemented. Therefore, the following aspects were analysed:

- the level of harmonization/consistency in the Member State's procedures for setting-up national control systems and the differences in the control procedures;
- the adequacy of distribution of responsibilities among the main actors involved in the control system, including application of the accreditation system;
- the public surveillance system in place supervising the functioning and quality of the organic control system;
- the exchange of information between the Commission and the Member States, and within the Member States;
- consumers' trust in the procedures of the organic control system and in the actors of the organic sector.

The information basis used to analyse the effectiveness of procedures of the control system consists of documentary analyses (cross-country comparison) of the control procedures implemented and interviews with national competent authorities and control bodies from 13 Member States, the case study results from the 'Gatto con gli stivali' fraud case, the review of relevant public documents and scientific literature, the consumer survey, and the web-based stakeholder survey.

The evaluation question examines the adequacy and effectiveness of the control system primarily on the basis of experiences of actors involved in the overall control system. Possible limitations through stakeholder biases were minimised by involving all stakeholder groups of the organic control system (see also House, 2003).

¹ The survey was responded by 265 European stakeholders mainly from Germany, Italy, the United Kingdom, Austria, the Czech Republic, Belgium, France and the Netherlands. More details about the web-based survey are given in Chapter 1.2.

² The CERTCOST-project was carried out under the EU's Seventh Framework Programme for Research. The overall objective of the project has been to provide recommendations to improve the organic food certification systems in Europe in terms of efficiency, transparency, and cost effectiveness. The reason for this has been the need for a strengthened competitiveness of the European organic food sector by means of reducing incidence of non-compliance and thereby increases consumers' trust.

8.3 Results

8.3.1 Adequacy of the control system to ensure compliance

Adequacy of the annual inspection requirements

Findings from the analysis of provisions

Article 27(3) of Council Regulation (EC) 834/2007 specifies that all organic operators shall be subject to a verification of compliance at least once a year (exemptions are possible for wholesalers dealing only with packaged products and operators selling to the final consumer or user as described in Article 28(2)). Control authorities or control bodies shall carry out at least once a year a physical inspection of all operators (Article 65(1) of Council Regulation (EC) 889/2008).

It is worthwhile noting that other areas work with considerably lower control frequencies. For example, the EU legal framework for the rural development programmes requires annual on-the-spot checks of at least 5 % of all beneficiaries³ (which could be halved under certain conditions).⁴

Views of stakeholders

As shown in Table 8.1, stakeholder surveyed found mandatory annual inspections to be an important measure to ensure fair competition among organic operators (mean 2.2)⁵. There are no big differences in the opinions of the different stakeholder groups. As far as mandatory annual inspections are concerned, control bodies/control authorities, competent authorities, processors and organic operator organisations are slightly more positive (mean >2.2) than importers and retailers (mean <1.8). Furthermore, most stakeholders perceive mandatory annual inspections as an important measure to ensure consumer confidence in organic products (mean 2.0). This was particularly stressed by stakeholders from Denmark and the United Kingdom; but to less extent by stakeholders from Poland.

³ Article 12 of Commission Regulation (EC) 1975/2006 laying down detailed rules for the implementation of Council Regulation (EC) 1698/2005.

⁴ To put the frequency of organic controls in the context of food safety controls (which aim to control microbiological and chemical hazards in the supply chain and, thereby, minimise the risk to consumers' health), two illustrative examples are given here: the German federal state 'Baden-Württemberg' controlled 3.7 % of the farms and 36 - 43 % of other actors of the food chain (MLRV Baden Württemberg, 2012) in 2011. In the United Kingdom, hygiene controls were conducted on 49 % of the milk producing holdings and on 25 % of the egg production sites (Food Standards Agency, 2012).

⁵ Measured on a 7-point Likert scale ranging from +3 (total agreement) to -3 (total disagreement).

Table 8.1: Views of stakeholders regarding the importance of annual inspections and additional risk-based inspections to ensure fair competition (mean values)

	Mandatory annual inspection of organic operators		Additional risk-oriented inspections	
	Mean value	n	Mean value	n
Producer	2.0	16	2.4	16
Processor	2.3	9	2.4	9
Retailer	1.8	18	1.9	18
Importer	1.7	17	2.0	17
Organic Operator Organisations	2.2	33	2.2	33
Control Body/Control Authority	2.5	54	2.3	54
Competent Authority	2.2	22	2.1	22
Governmental Authority	1.9	16	2.1	16
Total	2.2	205	2.3	205

Question: How important are the following measures of the control system to ensure fair competition among organic operators (producers, processors etc.)? (Measured on a 7-point Likert scale, +3 = total agreement; 0 = neutral; -3 = total disagreement)

Source: Own data from web-based stakeholder survey.

Scientific evidences

Zorn et al. (2010) analysed the **control frequency** in Germany based on data from 2006 of nine organic control bodies. Each operator was subject of 1.14 controls per year (announced and unannounced controls). However, the control frequency per operator varied considerably between the control bodies and between operators. Their analysis shows that in 2006, German producers have been controlled less frequently than processors and with a similar frequency as importers. The average control visits were between 1.00 and 1.22 controls per year for producers, between 1.09 and 1.32 controls per year for processor and between 1.00 and 1.21 controls per year for importers. Therefore, control bodies comply with the requirements of the Regulation of at least one annual control plus additional random control. Given the German default frequency of additional random controls of 10 %, two control bodies achieved less than 1.10 annual control visits per operator (Zorn et al., 2010).

Within the CERTCOST-project, the number of control visits was collected from five organic control bodies and/or control authorities from the Czech Republic, Denmark, Germany, Italy and the United Kingdom (one control body/control authority per country). Table 8.2 shows the average number of annual control visits (announced and unannounced) per operator for the years 2007 -2009. The average number of annual control visits varies between the five countries: they were lowest in the Czech Republic (average 1.01 - 1.05 annual control visits per operator) and Denmark (average 1.02 - 1.04 annual control visits per operator) and highest in Italy (average 1.44 - 1.56 annual control visits per operator). Thus, in the Czech Republic and in Denmark, additional random controls are below 5 % while in Italy on the other hand around 50 % of the operators were additionally randomly visited. Contrary to the results of Zorn et al. (2010) from

nine German control bodies (2006 data), 2007-2009 data collected from one German control body in the CERTCOST-project showed that German producers were visited more frequently than processors and importers. In Italy on the other hand importers were more frequently controlled than processors and producers.

Table 8.2: Average number of control visits of organic control bodies and control authorities per operator and year (one control body/control authority per country)

	Total	Producers	Processors	Importers
Germany				
2007	1.07	1.07	1.04	1.06
2008	1.16	1.19	1.06	1.10
2009	1.24	1.27	1.08	1.05
Czech Republic				
2007	1.01	1.01	n.d.	n.d.
2008	1.02	1.02	n.d.	n.d.
2009	1.05	1.06	1.03	1.13
Denmark				
2007	1.04	1.04	n.d.	n.d.
2008	1.02	1.02	n.d.	n.d.
2009	1.03	1.30	n.d.	n.d.
Italy				
2007	1.50	1.49	1.53	3.00
2008	1.56	1.55	1.60	2.90
2009	1.44	1.43	1.50	3.60
United Kingdom				
2007	1.12	1.14	1.10	1.16
2008	1.16	1.17	1.14	1.20
2009	1.12	1.30	1.09	1.11

Total number of operators from the five control bodies: 2007: 15 586, 2008: 15 915, 2009: 17 796; Germany: 80 % producer, 16 % processor, 4 % importer; Czech Republic: 2007 – 2008 only producer, 2009: 86.5 % producer, 12 % processor, 1.5 % importer; Italy: 84.8 % producer, 15 % processor, 0.2 % importer; UK: 55 % producer, 38 % processor, 7 % importer; Denmark: only producer; n.d. = no data

Source: Own analysis based on data from one control body or control authority per country collected in the CERTCOST-project (Moschitz et al., 2009).

Albersmeier et al. (2009) suggested varying auditing intervals, auditing depth, unannounced spot checks of risk-based approaches superior to standard control procedures to ensure non-opportunistic behaviour of operators. Several authors propose using specific approaches (moral hazard theory, statistic approaches) to determine optimum control intensities and thus risk-based inspections (Hirschauer, 2004; Albersmeier et al., 2010; Dabbert, 2011).

Adequacy of the control system is also determined by the **cost of the system**. Stolze et al. (2012) calculated in the CERTCOST-project the whole range from the certification fees to opportunity costs of organic operators and the administrative costs at the various levels of farmers and

processors, standard owners, competent authorities and the control bodies. Results revealed that with respect to the certification cost, the inspection fee is the most relevant monetary expenditure for organic operators (on average 900-1 000 EUR per farm). It corresponds to a share of up to 0.4 % of the raw income⁶ of a farm and up to 1 % of the organic turnover of processors. Since the major cost item of control bodies depends on the number of on-site controls and thereto connected office work⁷, the authors conclude that the costs of certification could be reduced by reducing the cost for the on-site control visit and thus the corresponding control fee (e.g. by strengthening risk-based control systems). Dabbert (2011) concluded on the basis of the results from the CERTCOST-project that once effective risk-based control systems have been implemented, the Commission could consider lowering the inspection frequency for proven low-risk operators.

Marketing literature suggests that **consumer trust** in certification or control systems is crucial particularly for organic products (Jahn et al., 2005). Consumer trust is however a multidimensional and dynamic construct, which is determined by the perceived strictness of standards and controls, domestic origin of the product and familiarity with the organic label. While organic labels signal to the consumer that compliance with the Regulation is ensured through regular inspections (Janssen and Hamm, 2011; Stolz et al., 2011), no research results were found showing, which control frequency consumers perceive to be adequate. As Janssen and Hamm (2012) pointed out, consumers have in general rather limited knowledge about organic production standards and the organic control system.

⁶ Raw income is calculated as revenues minus variable and fixed costs, however, without the imputed labour costs of the farm family.

⁷ According to Stolze et al. (2012), control bodies dedicate 44 % (median) of the total time spent on certification to on-site controls, whereby the values varied considerably. Furthermore, preparatory work and work after the inspection visit in terms of processing records amount around 30 % of the control bodies' workload.

Adequacy of the additional risk-based inspections

Findings from the analysis of provisions

According to Article 27(3) of Council Regulation (EC) 834/2007, 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. Control authorities or control bodies shall carry out random control visits, primarily unannounced, based on the general evaluation of the risk of non-compliance with the 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 (Article 65(4) of Council Regulation (EC) 889/2008).

The document analysis conducted in the 13 case study countries showed that so far only Austria, Estonia, Germany, Italy and the Netherlands have national guidelines for risk-based inspections or criteria respectively. Thus mandatory risk-based controls are carried out differently across Member States.

Views of stakeholders

Stakeholders responding to the stakeholder survey expressed that additional risk-based inspections are important to ensure fair competition among organic operators (see Table 8.1). Producers, processors and control bodies/control authorities consider additional risk-based inspections slightly more important (mean >2.3) than retailers and importers (mean <2.0). Asking for areas which could improve the effectiveness of the control system, 15 % of the respondents (a total of 164 stakeholders responded to this question) suggested additional risk-based controls. This was particularly mentioned by control bodies (5), traders (4), competent authorities (3), and organic operator organisations (3) and by German (7) and Italian stakeholders (4).

Scientific evidence

The objective of a risk-based inspection approach is to focus resources on risky operators with regards to the frequency and intensity of controls (Alderman and Tabor, 1989). Conversely, these risk-based inspections can also be used to identify low risk operators. While so far risk-based control systems are largely based on qualitative approaches (Dabbert, 2011), there are a number of studies analysing the use of alternative **approaches for estimating the risk potential** of organic operators. Hirschauer (2004) proposes using the moral-hazard theory to establish models for the determination of optimum control intensities. In contrast to this, Dabbert (2011) and Gambelli et al. (2012) consider quantitative approaches to enhance the effectiveness and the usefulness of qualitative risk-based approaches. Their analysis provided evidence that the probability of non-compliance is higher for operators who have already been non-compliant. Furthermore, they found farm size, complexity of operations and presence of pig and poultry production to be determinant for slight non-compliances. However, they consider data collected so far from control bodies (e.g. structural data from organic operators) insufficient for risk-based inspections (Dabbert, 2011). Gambelli et al. (2012) concluded that based on currently available data a risk-

based inspection strategy is quite difficult to implement. Therefore, the results from the CERTCOST-project suggest including personal information about operators (e.g. age of operators, enterprise type, total turnover, liabilities and debt, solvency) additionally to the already collected data (Dabbert, 2011; Gambelli et al., 2012). Zorn et al. (2013) stress that organic operator's personal financial situation and that of his operation could also influence his compliance behaviour: operators with serious liquidity problems will be more inclined to be dishonest. However, any approach to collect more detailed data about the operators would need to take the data protection legal framework of the EU into account as expressed in the charter of fundamental rights of the European Union (European Union, 2010).

Based on comprehensive calculations on the total **cost of organic certification**, Stolze et al. (2012) concluded that reducing the number of control visits per operator by introducing risk-based inspection could reduce the certification costs considerably.

Albersmeier et al. (2009) state that the risk-based approach contrasts sharply with some of the expectations in agribusiness that auditing should be more standardized and equal across all operators. They consider risk-based approaches to be useful to ensure non-opportunistic behaviour of operators. However, this approach requires **additional skills and competences** from control authorities/bodies since different auditing intervals, auditing depth, unannounced spot checks and differentiated auditing focuses are needed. Therefore, it is necessary to provide specific training for control body staff carrying out risk-based controls (Albersmeier et al., 2009). Zorn et al. (2013) highlight that applying more sophisticated risk analysis tools requires technical and methodological skills which are so far not available to control bodies but could be provided by external technical services.

Findings from the review of relevant publications

Similar conclusions were also drawn by Maresca et al. (2013). They concluded in the EU-project IRM-ORGANIC⁸ that a more risk-based and investigative control system would require a mix of measures including unannounced inspections, quick follow-up in case of non-conformities, use of cross-checks by the control bodies, and targeted sampling and testing. This mix of control measures however requires an improved training of inspection staff.

⁸ The IRM-ORGANIC-project (Training on improved risk management tools for organic inspectors) aims to facilitate an open-minded exchange between control bodies in Europe on state-of-the-art inspection methodologies and techniques to optimize consumer protection and fair competition on the emerging green market for products from organic farming. It is funded by the EU Leonardo Da Vinci – Lifelong Learning Programme.

Adequacy and justification of Article 28(2) of Council Regulation (EC) 834/2007 which allows Member States to exempt operators who sell products directly to the final consumer or user from the control system

Findings from the analysis of provisions

Article 28(2) of Council Regulation (EC) 834/2007 enables Member States to exempt operators who sell products directly to the final consumer or user from the control system if these operators do not produce, process, pack, label or store organic products elsewhere, do not import organic products from third countries and/or outsource these activities to a third party. The document analyses of national regulations and other relevant documents showed that in all 13 case study countries operators selling organic products directly to the final consumer are exempted from submission to the control system provided that the operator does not produce, prepare, process, store other than in connection with the point of sale, or import such a product from a third country, or has not contracted out such activities to a third party. It further showed that the interpretation of the conditions for granting the exemptions varies, so that operators may be treated differently across Member States.

Views of stakeholders

The stakeholder survey showed varying results with respect to the question whether retailers should be exempted from the organic control system (see Table 8.3). Producers and control bodies/control authorities on the one hand and stakeholders from France and Italy favour to a large extent the inclusion of retailers in the organic control system (means >1.6). Stakeholders from Denmark on the other hand responded that retailers should not be included in the control system (mean -1.8) however without specifying any reasons. Processors and stakeholders from the United Kingdom were neutral about this.

The most important arguments to include retailers in the control system were ensuring consumer confidence. Stakeholders consider retailers to take a key role as they are in direct contact with the consumers. Therefore, to ensure consumer confidence in organic products, retailers should be included in the control system (7 stakeholders, 3 from Austria). Six stakeholders considered the risk of incorrect labelling and commingling with non-organic products to be high. Furthermore, it was mentioned that the entire organic supply chain should be subject to the control system (4 stakeholders) and that retailers should take responsibility when they sell organic products (3 stakeholders). 19 stakeholders however (among them 6 control bodies, 3 competent authorities, 2 national authorities) take the view that retail of packed food should not be subject of the control system as there is no risk for commingling and incorrect labelling. Retailers should only be included in the control system *“...when they sell organic products which are not originally packaged by a company covered by the scope of the organic regulation”*. Some of these stakeholders argued that including retailers of only packed food in the control system would increase costs but without giving more security to the consumer. Seven stakeholders (among them 3 control bodies) found that the retail sector should be exempted in general.

Table 8.3: Views of stakeholders regarding the inclusion of the retail sector in the control system (mean values)

	Mean value	n
Producer	1.7	16
Processor	0.2	9
Retailer	1.2	17
Importer	0.8	16
Organic operator organisation	0.9	33
Control body / control authority	1.6	50
Competent authority	1.0	20
Governmental authority	1.1	16
Germany	1.2	54
Denmark	-1.8	5
France	2.1	10
Italy	1.7	27
United Kingdom	0	13
Czech Republic	1.4	14
Poland	0.7	6
Total	1.3	198

Question: Please indicate the degree of your personal agreement to the following statement: "The retail sector should be fully included in the control system." (7-point Likert scale, +3 = total agreement; 0 = neutral; -3 = total disagreement)

Source: Own data from web-based stakeholder survey.

Findings from the review of relevant publications

There is one study analysing the 2005 to 2011 inspection data from 1 025 inspections of retailers with processing operations from Germany. According to this study (Neuendorff, 2012), so far no information on severe infringements and fraud cases concerning the exempted retail operations is available. Neuendorff (2012) considers the risk of non-compliances with the production and labelling rules of the EU legislation on organic production to be quite low if retail operations only deal with packed and labelled food because the risk of commingling with conventional products and incorrect labelling is low.

Neuendorff (2012) shows that written warnings needed to be issued only in a limited number of cases and no references to the organic production needed to be withdrawn and no prohibition of marketing the organic products were issued. On the basis of these results, Neuendorff (2012) defined the following risk categories for not exempted processing operations in the retail sector:

- **Low risk:** off-baking of bread, roasting and grinding of coffee, selling of organic drinks;
- **Medium risk:** portioning and packing of organic cheese, meat and sausages, preparation of mincemeat;
- **Enhanced risk:** preparation of organic salads, organic snack food;

and suggested introducing a risk-based inspection approach for processing operations in the retail sector.

Based on the experience of a German control body, Neuendorff (2013) reported that some retailers undertook a preparation activity (crisped organic bread in their retail outlet) without notifying it to the competent authorities. This suggests that the exemption from the control system is only justified if the conditions for granting it are periodically verified.

8.3.2 Effectiveness of the implemented control system in Member States

Consistency in the Member State's procedures of setting-up national control systems and the differences in the control procedures

Findings from the analysis of provisions

The document analysis conducted in the 13 case study countries revealed that only Denmark, Germany, Italy and Slovenia statutorily regulate **residue sampling and analysis** of organic products. In the United Kingdom, national testing procedures for organic food are currently being developed. In Member States without statutorily regulated residue sampling and analysis approaches, each control body has its own procedures with respect to the number of analyses and the maximum threshold to evaluate the level of contamination, to assess the level of corresponding sanctions, and to determine if the products should be declassified or whether the certificate should be withdrawn from the operator.

The document analysis showed further that only four of 13 Member States have a common catalogue for **issuing of sanctions**: Germany (German Regulation on approval of control), Estonia (not very detailed), the Czech Republic (Act. No. 242/2000), and the Netherlands (SKAL sanction regulation R14). In Italy, the national accreditation body provides a classification of non-compliance and sanction. France, Poland and the United Kingdom are currently developing sanction catalogues or plan to do so soon respectively. In Austria, the regional federal government of Vorarlberg urge the compilation of a standardized catalogue of sanctions to ensure that the different control bodies handle infringements and irregularities equally. As a consequence, each control body might define Article 30 in a different way. This leads to operators being sanctioned differently for having committed the same infringement (European Court of Auditors, 2012).

Views of stakeholders

About 44 % of the stakeholders surveyed indicated that there are differences in the **effectiveness of the control system** across Member States. Particularly retailers (agreement 63 %), importers (53 %) and control bodies/authorities (51 %) took the view of differences in the effectiveness of the control system. In contrast to these stakeholders, the majority of processors (agreement 0 %) and national authorities (agreement 25 %) took a different view. From a country perspective,

stakeholders from France (90 % agreement) and Denmark (86 %) strongly supported the statement of differences in the effectiveness of the control system whereas the majority of the Czech stakeholders disagreed (disagreement 36 %) and only 21 % of the stakeholders from the United Kingdom (71 % do not know) agreed to this statement. The areas of differences in the effectiveness across the Member States are to a large extent similar to the issues raised with respect to different interpretation of the control rules.

The stakeholder survey highlighted the **need for a more harmonised control system** in the EU. In total, 50 % of the stakeholders surveyed indicated that the control rules are interpreted differently in the Member States while 32 % did not know. The results varied only marginally between the different stakeholder groups. Retailers, control bodies/control authorities, national authorities and importers found to a slightly higher extent that the control rules are differently interpreted across the Member States (agreement >55 %). However, there were larger differences between the stakeholders from different countries: 80 % of the French stakeholders and 71 % of the Danish stakeholders but no stakeholder from the Czech Republic (57 % do not know) found that control rules are interpreted differently. The following areas where control rules are interpreted differently across the Member States were mentioned: residue sampling, testing and analysis (15 %; particularly mentioned by control bodies), criteria for risk-based approaches (5 %), control frequency (4 %), share of unannounced controls (4 %), issuing of sanctions (4 %), and accreditation process for control bodies (4 %). As to the latter, the need for harmonisation of control processes with respect to both between accreditation bodies within a Member State and between Member States was particularly highlighted by three German stakeholder surveyed (two competent authorities, one organic sector organisation). Clear and harmonised guidelines for accreditors are suggested to improve harmonisation in accreditation procedures. In this respect, a Finish stakeholder suggested to establish only one EU accreditation body.

The need for a more harmonised control system was also expressed in the interviews carried out in the case study countries. Nine of 12 competent authorities and 11 of 21 control bodies/control authorities interviewed stressed the need for such a harmonisation; notably from the Czech Republic, Germany, Denmark, France, Spain, Italy, Poland, and Slovenia. The interviewed control bodies/authorities or competent authorities from Austria, the Netherlands and the United Kingdom gave partly contradictory answers. While some control bodies or competent authorities in these countries see areas which would need harmonisation, others do not. Additionally to the areas already identified in the web-based stakeholder survey, competent authorities and control bodies mentioned in the interviews the following areas, where the control system should be harmonised across the Member States: information exchange between control authorities or control bodies, the management in case of suspicion of infringements and irregularities, exemption of retailers according to Article 28 of the Regulation, and non-conformity follow-ups and sanctions as well as non-compliance categories. The Standing Committee of Organic Farming (SCOF) was considered to be a useful means to harmonise the control system.

However, there are also stakeholders voicing the risk that the EU organic farming legislation regulates too much and does not leave enough space for effective controls (*“regulatory overkill should be avoided”*). Therefore, a moderate **flexibility in the control rules** might be required and *“any initiatives to further harmonise the control system need to be adequate and appropriate”*. Instead of more detailed rules, the stakeholders interviewed suggested that the organic farming legislation should put more emphasis on the liability of organic operators. Changes in the whole system should be well considered on the aspect of how much improvement can be achieved by more harmonisation.

Even though half of the stakeholders (55 %) state that there is a need for flexibility due to regional differences, on average, they were quite neutral about this (mean 0.3). Processors (mean 1.1) and interviewees from Denmark (mean 1.1), Central and Eastern European countries⁹ (mean 1.1) and the United Kingdom (mean 0.8) slightly agreed to the need for regional flexibility. Proponents consider that each Member State represents an own culture and tradition. Differences in the implementation of control rules could therefore sometimes be necessary as the situation in the Member States is different. Therefore, the EU organic farming legislation might not be able to be uniformly applied in each Member State. Stakeholders from France however were against regional flexibility in the control system (mean -1.2).

Few differences were identified with regard to stakeholders' view on the **importance of different control measures** to ensure fair competition. Stakeholders surveyed found an explicit sampling and testing policy (mean 1.8) to be an important means of ensuring fair competition among organic operators (see Table 8.4); to a slightly less extent than additional risk-based inspections (mean 2.3), systematic investigation and follow-up of detected residue cases (mean 2.3), mandatory annual inspections (mean 2.2) and definition of non-compliance and sanction categories (mean 2.1). There are no big differences in the opinions of the different stakeholder groups. Control bodies/control authorities, competent authorities and governmental authorities are more positive than the other stakeholders.

⁹ Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia.

Table 8.4: Views of stakeholders regarding the importance of sampling and testing, systematic investigations and the definition of non-compliance and sanction categories to ensure fair competition (mean values)

	Explicit sampling and testing policy for control bodies		Systematic investigation and follow-up of detected residue cases		Definition of non-compliance categories and sanctions	
	Mean value	n	Mean value	n	Mean value	n
Producer	2.1	16	2.5	16	1.9	16
Processor	1.1	9	2.0	9	1.6	9
Retailer	1.5	18	2.1	18	1.9	18
Importer	1.2	17	2.2	17	1.7	17
Organic Operator Organisations	1.3	33	2.0	33	1.9	33
Control Body/Control Authority	1.9	54	2.3	54	2.2	54
Competent Authority	2.2	22	2.6	22	2.4	22
Governmental Authority	1.8	16	2.4	16	2.1	16
Total	1.8	205	2.3	205	2.1	205

Question: How important are the following measures of the control system to ensure fair competition among organic operators (producers, processors etc.)? (7-point Likert scale, +3 = total agreement; 0 = neutral; -3 = total disagreement)

Source: Own data from web-based stakeholder survey.

Differences in the control system become a problem in cases when differences lead to unfair competition. Indeed, 78 % of the stakeholders surveyed (see Table 8.5) were of the opinion that **differences in the implementation of the control rules** lead to unfair competition between organic operators (mean 1.5). There are only minor differences between the stakeholder groups. However, Danish stakeholders were rather neutral (mean 0.6) whereas stakeholders from Italy (mean 2.1) and Poland (mean 2.0) supported this statement more strongly. The stakeholders in general slightly agreed to the statement that differences in the control system could disturb the functioning of the internal market (66 %, mean 1.0). Particularly retailers and importers (mean 1.5 and 1.4, respectively) and stakeholders from Italy (mean 1.8) supported this statement more strongly whereas governmental authorities were rather neutral (mean 0.3). Interestingly, about 25 % of the organic producers, 33 % of the processors, 50 % of the importers and 53 % of the retailers reported in the stakeholder survey that the competitiveness of their operation is or has been affected as a result of differences in the control systems of the Member States.

Table 8.5: Views of stakeholders regarding the differences in the control system between Member States (mean values)

Differences in the control system between EU Member States are necessary to meet national conditions		... lead to unfair competition between organic operators		... disturb the functioning of the EU internal market and do not lead to fair competition	
	Mean value	n=219	Mean value	n=219	Mean value	n=219
Producer	0.1	18	1.6	18	1.1	18
Processor	1.2	9	0.9	9	1.0	9
Retailer	0.1	19	1.7	19	1.5	19
Importer	0.2	18	1.3	18	1.4	18
Organic Operator Organisations	0.5	35	1.2	35	0.8	35
Control Body/Control Authority	0.1	58	1.6	58	0.9	58
Competent Authority	0.4	22	1.5	22	1.0	22
Governmental Authority	0.6	16	1.3	16	0.3	16
Total	0.3		1.5		1.0	

Question: To which extent does the EU organic farming legislation meet its general aims with respect to the actual control procedures? (7-point Likert scale, +3 = total agreement; 0 = neutral; -3 = total disagreement)

Source: Own data web-based stakeholder survey.

Scientific evidence

The analysis of 2007-2009 data of control bodies/control authorities from the Czech Republic, Denmark, Germany, Italy and the United Kingdom collected in the CERTCOST-project (Moschitz et al., 2009) revealed that the **share of unannounced controls** of all control visits varies considerably between both the five control bodies or control authorities respectively and the years 2007 to 2009. The share of unannounced controls thus amounted for the German control body 6.4 % in 2007 and increased to 19.1 % in 2009. In Denmark and in the United Kingdom, the share of unannounced controls was below 10 % while in Italy the share was around 10 % for the years 2007 to 2009. These results are confirmed by Zorn et al. (2010) who found considerable differences in the share of unannounced controls of nine German control bodies of 5.8 % to 19.4 % (2006 data).

It is worthwhile noting that Dabbert et al. (2012) concluded in the CERTCOST-project that there is a need to further clarify the **definitions of 'infringement' and 'irregularity'** with corresponding sanctions as well as to promote good practice. They recommend guidelines to create a harmonised system of sanctions to be applied under Article 30 in the event of infringements or irregularities (harmonised scales) in all Member States and by all control bodies. Regulation (EC) 834/2007 uses the term *"risk of occurrence of irregularities and infringements as regards compliance with the requirements laid down in this regulation"* (Article 27). This has essentially the same meaning as the expression 'risk of non-compliance'. However, a wider understanding of risk could include further aspects. Especially the size of the potential damage to the organic market and consumer trust is important (Dabbert et al., 2012).

Furthermore, Dabbert (2011) concluded that the mandatory accreditation of control bodies has so far led only to a limited extent to a more harmonised supervision of the control system among Member States. He suggests a concerted action of accreditation bodies, e.g. by drawing up codes of Good Practice as encouraged by the EU Commission.¹⁰

Adequacy of distribution of responsibilities among the main actors involved in the control system, including application of the accreditation system

Findings from the analysis of provisions

The basic distribution of responsibilities in the control system is defined in Article 27 of the Regulation (EC) 834/2007. Accordingly, Member States may designate one or more competent authorities responsible for controls in respect of the obligations established by the Regulation. The competent authority may confer its control competences to one or more other control authorities and/or delegate control tasks to one or more control bodies. In that case, the Member States has to designate authorities responsible for the approval and supervision of such bodies.

For delegating control tasks to a particular control body, the Regulation requires among others that the control body is accredited to the most recently notified version of European Standard EN 45011 or ISO Guide 65.

Views of stakeholders (control bodies and competent authorities)

The Spanish competent authority stressed that harmonization is required between Regulation (EC) 882/2004 and Regulation (EC) 834/2007 to better **clarify the surveillance procedures** that competent authorities should execute on control bodies and control authorities. The Regulation on organic farming should establish more clearly the control procedures the competent authority has to exert over the control authority. An Austrian control body highlighted that there should be only one national authority responsible for organic agriculture and no involvement of several authorities and public institutions. One Italian control body felt that there is no coordination between national and regional authorities, and that some regions even do not perform any supervisory activity.

The stakeholder survey provided no indication that the distribution of responsibilities in the control system with respect to **accreditation bodies** is inadequate. Only one stakeholder from Denmark (scientist) mentioned that in Denmark the distribution of responsibilities between the control authority and the accreditation body needs to be clearer.

¹⁰ The European Cooperation for Accreditation (EA) has established a dedicated task force to foster harmonized supervision of the organic control system. A specific mandatory document for EA national accreditation bodies has been developed and approved in June 2013 (European Cooperation for Accreditation, 2013).

Findings from the fraud case analysis

The fraud case 'Gatto con gli stivali' indicated that an inadequate distribution of responsibilities may hamper a **quick information exchange**. The fraud case was a penal procedure of the Italian tax investigation and details about this investigation were only available to the organic control system to the extent communicated by the prosecuting authority (Rohrdanz, 2012). There was no official interface ensuring that information on suspicious cases from, for example, the tax investigation is transmitted to authorities of the organic control system. Thus, the competent authorities of the possibly fraud-affected Member States had to rely on information from different actors of the organic sector which was often not very reliable and sometimes contradictory. Details on the fraud case are given in the subsequent section on 'Information exchange between the actors involved in the control system'.

Findings from the review of relevant publications

Schulze et al. (2009) emphasize that an effective co-ordination between competent authorities, the accreditation body and the control bodies is needed to establish an effective and efficient control system.

Adequacy of the public surveillance system in place

Findings from the analysis of provisions and other information sources

The public surveillance system encompasses the entire EU framework of activities of national competent authorities and accreditation bodies as described in the EU organic farming legislation to supervise and monitor the organic control system at the level of the control bodies.

A key-element of the supervision of control bodies are office and witness audits¹¹. In all case study countries with a system of private control bodies, the competent authorities conduct one office audit per year at the control body. However, the **number of witness audits** conducted by the competent authorities varies considerably between Member States. While in Austria, the Czech Republic, Spain and Germany the competent authority conduct 4 - 5 witness audits, and at least one in the United Kingdom, Bulgaria and Italy, so far no witness audits were conducted in Poland and Slovenia (Slovenia plans to do so in 2013). Own inspections of organic operators are conducted by the competent authority only in Austria (about 20 per year), Germany (about 20 per year) and Poland.

Views of stakeholder

As far as the general assessment of the **adequacy and effectiveness** of the national approval and surveillance system for control bodies is concerned, all competent authorities of the 13 case

¹¹ Witness audits are accompanied on-site inspection visits carried out by a competent authority with the aim to inspect (or audit) control bodies themselves.

study countries expressed that the system of their country is implemented adequately and effectively. The control bodies interviewed in Bulgaria, Estonia, France, the Netherlands, Poland and Slovenia were positive towards the surveillance system. However, five control bodies from Italy, Austria, the Czech Republic and from the United Kingdom considered the supervision system of the competent authority over the control bodies ineffective. The French control body considered the national supervision system to be effective through the double requirements of approval and accreditation¹². In Germany, one competent authority and an organic sector organisation states that control effectiveness of the accreditation body over the control bodies could be improved. The Slovenian competent authority reports that the accreditation body is very strict, reliable and impartial. One control body from the United Kingdom and Portugal take the view that the accreditation body lacks technical competence in organic farming.

Different assessments as regards the adequacy and effectiveness of the public surveillance system were not only expressed in the interviews but also in the web-based survey. The stakeholder survey showed that 47 % of the control bodies consider the supervision through the national competent authorities to be adequate to ensure the functioning of the control system (43 % do not agree). However, 73 % of control bodies from Italy and 60 % from Central and Eastern European countries (Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia) take the view that the supervision is not adequate and not functioning. There is criticism that the supervision of competent authorities focuses too much on formal requirements involving extensive reporting. On the other hand, the information collected seems often not to be used. An example is the collection procedures and use of statistical data. It is suggested that competent authorities should audit more frequently and thoroughly to ensure a really effective control system.

The control bodies highlighted that some competent authorities are not endowed with the **financial and human resources** which would be required to do the supervision properly. This was particularly highlighted by stakeholders from the United Kingdom. Also in Austria, two control bodies found the personnel infrastructure of the competent authority insufficient. In this context also lacking competence of competent authority staff was mentioned. An Italian control body criticised that supervision in Italy was criticised for not being substantial enough and focused on documentary and bureaucratic information.

Scientific evidence

Zorn et al. (2012) compared the **official data on sanctions** reported from the German competent authority to the European Commission with the primary data of the issued sanctions from one German control body. They found mistakes in the reporting in the year 2008 due to careless reporting by the control body. Even though these mistakes were quite obvious, they were not

¹² In accordance with Article 27(5)(c) of Council Regulation 834/2007 the control bodies are submitted to a double control to ensure that the minimum control requirements are applied: a) from the accreditation body (audit every 15 months) and b) from the competent authority (audit once a year).

noticed by both the control body and the competent authority. The authors conclude that the use of the supervision reports might be limited, possibly because of the data structure and quality.

Information exchange between the actors involved in the control system

Views of stakeholders

The effectiveness of the organic control system is very much affected by the **frequency of information exchange**. About 78 % of control bodies meet more than twice a year and have established a continuous dialogue with the national competent authority (Austria, Belgium, Czech Republic, France, Germany, Hungary, Ireland, Italy, Lithuania, Poland, and Sweden). Control bodies from Spain, Portugal and Slovakia meet twice a year while one control body from Spain and the United Kingdom exchange information with the competent authority only once a year. Responses from the control bodies in Germany and Italy are contradictory. For example, six German control bodies surveyed in the stakeholder survey stressed that there is a lot of information exchanged with the competent authorities via different information exchange platforms while one seems to have no information exchange at all. Similarly, while the 'coordination table' initiated by the Italian Ministry of Agriculture was considered to be an effective tool for information exchange (more than twice a year) for nine control bodies, one control body responded to have no meeting at all with the Italian competent authority. In the case of Germany and Italy, this situation is probably due to the administrative structure of both countries with a national/federal competent authority and regional competent authorities.

Actors of the organic control system use different **approaches to exchange information**. For cases of infringement a regulated information exchange already exists, the Organic Farming Information System (OFIS). In case of suspicion every Member State has the possibility of information exchange with other Member States. Interviews carried out with the competent authorities from the Czech Republic, Poland, the Netherlands and Italy revealed that information between Member States is exchanged during SCOF-meetings and by personal contacts with peers (Czech Republic, Italy, Poland and the Netherlands). SCOF is considered to be effective and helpful for information exchange. The Slovenian competent authority considers the OFIS database enables quick exchange of information between Member States. Control bodies in Austria, Germany, France, and Spain established institutionally quite intense communication through national associations of control bodies. But also Czech, Polish, Slovenian and UK control bodies meet regularly. The Estonian control body interviewed pointed out that information exchange has improved while the Bulgarian control bodies have only contact via e-mail. Competent authorities from Italy and Spain criticised that communication between the national authorities and the regional competent authority is not effectively organised. In Spain, the regional authorities who implement the EU legislation seem to have no established communication and information exchange platform. A German control body complained that they do not have sufficient access to relevant official data sources, which could be used to

prepare the control visit and allow them to focus during the on-site inspection on more relevant issues.

Findings from the review of relevant publications

The European Court of Auditors (2012) found in two Member States visited that the information flow between the control system for organic production and for policy support under the agri-environment measures to be insufficient. In France, the results of the checks made by the control bodies were not communicated to the paying agency for the agri-environment subsidies. The Court of Auditors concluded that there is the risk that non-compliances affecting the conditions for receiving agri-environment payments, detected by a control body, do not result in a reduction or recovery of the payment. Likewise, in the United Kingdom they found no reverse flow of information and the risk that non-compliances concerning organic farming practices detected by the paying agency as a result of their inspections do not result in sanctions imposed by the control body.

Results of the fraud case analysis

The fraud case 'Gatto con gli stivali' was until now one of the largest fraud cases in the EU concerning organic products covered by the EU legislation on organic production. The press release of the Italian Guardia di Finanza (tax investigation) reported on a volume of approximately 703 000 tons of false-labelled conventional products sold as organic and financial damage estimated at around 220 million EUR, representing approximately 10 % of the total turnover of the Italian organic market. The subsequent analysis is based on the results of the Anti Fraud Initiative (AFI) seminar in Italy as well as personal interviews with actors involved in the fraud case and an evaluation of correspondence exchanged between competent authorities and control bodies.

According to FederBio (2012), mainly from 2007 to 2009, a network of at least 20 fraudulent operators sold conventional products produced in Italy and Romania as organic to several EU Member States (mainly Austria, Belgium, France, Hungary, the Netherlands, Spain and Switzerland). The fake products were cereals (barley, rye, spelt, wheat), corn, sorghum, flax, peas, faba beans, soybeans, canola, sunflowers and mashed apples.

The fraudulent trade companies supported by two employees of the largest Italian control body 'changed' the conventional status of the commodities to organic by

- fudging conformity certificates (documentary evidences according to Article 29 of Regulation (EC) 834/2007), the production plan (according to Article 71 of Regulation (EC) 889/2008), proofs of land ownership and tenancy agreements, contracts as well as delivery notes and invoices; and
- fudging of invoices of commercial transactions which never happened in reality.

Due to the missing international verification of conformity certificates and bookkeeping documents through cross checks, the detection of the fraud was difficult for control bodies.

Furthermore, the fraudulent activities were facilitated by multiple certifications of organic operators. The Italian organic operators involved in the fraud were often inspected by different control bodies for different activities. Indeed, one of the main actors in the fraud case, the Italian company Sunny Land S.P.A., was inspected by two control bodies: one controlled the trading/processing activities while the other one controlled the import activities.

The fraud case came to light during an inspection conducted by the Italian tax investigations at the trading company Sunny Land. As a consequence of the inspection, the Italian tax investigation started broad examinations of various trading companies and control bodies which lasted for more than one year. Italian competent authorities as well as several control bodies were involved in these investigations, but they were bound to secrecy. During the tax investigation, in May 2011, Sunny Land changed to another control body. However, the original control body confirmed the organic status of Sunny Land to the one that took over without informing about the on-going investigations of the Italian tax police and the suspicion of fraud. The fraud case went public with a press conference of the Italian tax investigation (Comando Provinciale Guardia di Finanza Verona) on 6 December 2011. This press conference immediately attracted the interest of the large international news agencies distributing the information internationally. However, no information was distributed by the Italian Ministry for Agriculture, waiting for official information from the judicial authority and Italian tax investigation. Thus, information about the Italian fraud case came to competent authorities of the possibly fraud-affected Member States through press publications and by different actors of the organic sector and not through information exchange procedures of the organic control system. For example in Germany, the fraud news was delivered to the competent authority by a German control body, which in turn was informed by an Italian control body. Thus, there was no official communication to the actors of the organic control system.

On 9 December 2011, the Italian Ministry for Agriculture confirmed the press release of the Italian tax investigation to the European Commission and to competent authorities of the other Member States. Ten days later, after a consultation between the and the Member States, the competent authorities of the Member States informed the national control bodies providing a list of companies possibly involved in the fraud, a product list and a preliminary list of commercial transactions from Italian trading companies to their direct clients in the Member States. However at that time, the EU-clients of the Italian fraudulent companies had already sold most fraudulent lots to other companies. Moreover, most of the 20 trading companies on the list had already left the organic control system. The situation of voluntary sales withdrawal of Italian companies from the control system, the suspensions, police investigations and sales to further EU-clients, made the traceability of the falsified lots very complex. To conclude, deficiencies in the information exchange were one key problem of the 'Gatto con gli stivali' fraud case. The case study revealed deficiencies at following levels:

Active phase of the fraud case

Control bodies and control authorities:

- Missing information exchange according to Article 31 Regulation (EC) 834/2007 relating to the authenticity of conformity certificates (documentary evidences) issued by other control bodies, of contracts, of invoices and of delivery notes through cross checks;
- Missing information exchange according to Article 31 Regulation (EC) 834/2007 relating to the parallel certification of one operator by different control bodies;
- Missing information exchange according to Article 31 Regulation (EC) 834/2007 relating to operators changing the control body;
- Missing centralised internet publication of conformity certificates (documentary evidences).

Phase after publication of the fraud

Control bodies and control authorities:

- Missing information exchange according to Article 31 Regulation (EC) 834/2007 relating to the fraud facts identified during the co-operation with the Italian tax investigation.

Competent authorities:

- Deficiencies on ensuring a co-ordinated approach and quick information exchange to identify and to report operators and lots affected by the fraudulent activities on the national level;
- Deficiencies on ensuring a co-ordinated approach and quick information exchange to identify and to report operators and lots affected by the fraudulent activities between EU-Member States.

Information exchange between control bodies as well as between control bodies and competent authorities was one of the key deficiencies complicating a quick seizure of potentially non-compliant organic products in the Member States.

Consumers' confidence in the organic control system

Results of the consumer survey

Regarding consumer trust in the actors of the organic sector the consumer survey reveals that respondents do trust but their confidence is not very pronounced (see Table 8.6).

Table 8.6: Mean values of extent of trust in different actors or institutions in different countries^a

		All	DE	EE	FR	IT	PL	UK
Inspectors controlling organic farms and processors	Mean	0.7	0.5	0.6	0.6	0.9	0.9	1.0
	n	2805	478	443	472	484	477	451
Organic farmer	Mean	1.0	1.0	1.0	0.9	1.0	1.0	1.1
	n	2841	482	449	473	490	477	470
The supermarket where you usually buy organic products	Mean	0.5	0.3	0.5	0.4	1.0	0.3	0.7
	n	2799	468	442	463	491	469	466
The organic food shop where you usually buy organic products	Mean	1.1	0.9	1.1	0.9	1.1	1.2	1.2
	n	2722	452	430	458	484	467	431
Organic labels	Mean	0.7	0.3	0.7	0.5	1.0	0.9	0.8
	n	2849	477	455	475	493	481	468
Organic processors	Mean	0.6	0.3	0.6	0.5	0.8	0.8	0.7
	n	2752	476	443	453	474	471	435

Question: Considering organic products, to which extent do you trust the following actors or institutions? (7-point Likert scale, +3 = very high confidence, 0 = neutral, -3 = no confidence)

Source: Own data from consumer survey.

There is no clear picture whether consumers prefer publicly or privately organised controls of organic operators (see Table 8.7). Consumers agree that stricter control rules are needed. Furthermore, they would appreciate the publication of control results from organic operators on the internet.

Table 8.7: Mean values of extent of confidence in control bodies and rules in different countries

		All	DE	EE	FR	IT	PL	UK
The 'organic' inspections should be done by public institutions/authorities	Mean	1.4	1.4	1.2	1.1	1.7	1.4	1.3
	n	2736	472	431	447	485	463	438
Organic' inspection of farms should be done by independent private inspectors	Mean	1.1	0.9	1.7	0.9	0.6	1.5	1.2
	n	2762	464	452	451	481	462	452
Stricter control rules are needed	Mean	1.6	2.0	1.2	1.6	1.9	1.6	1.1
	n	2707	485	408	464	484	456	410
Control results from organic operators should be published in the internet	Mean	1.9	2.1	2.0	1.7	2.0	2.1	1.5
	n	2852	489	466	470	491	479	457

Question: Do you think the government or the European Commission should be more active to maintain or increase trust in organic products? Please indicate to which extent you agree to the following statements. (7-point Likert scale, +3 = very high confidence, 0 = neutral, -3 = no confidence)

Source: Own data from consumer survey.

Views of stakeholders

The question whether the control system is adequate or not to ensure consumer protection was also addressed in the stakeholder survey. In total, 81 % of the surveyed stakeholders consider the organic control system to be highly effective in ensuring consumer protection. As very important are seen: mandatory annual inspections (83 %), additional risk inspection (80 %) and systematic and follow up investigation (82 %). According to the stakeholder survey, the following control aspects are less important for ensuring consumer confidence: no differences in the control system of the Member States (69 %), an explicit sampling and residue testing policy (63 %) and the definition of non-compliance categories and sanctions (66 %).

Scientific evidence

A research study from Germany (Stolz et al., 2011) showed that organic consumers had a high level of trust in organic inspectors and organic farmers. Trust in organic labels and in organic processors was significantly lower than consumer trust in organic inspectors and organic farmers.

Results of the CERTCOST project (Janssen and Hamm, 2011) revealed that organic consumers from the Czech Republic, Denmark, Germany and Italy trust organic certification schemes in particular. Trust in organic certification systems was largely intertwined with perceived stricter control and familiarity with the organic logo. Consumers however have a low level of factual knowledge about organic production standards and the organic control system (Janssen and Hamm, 2012). This is also confirmed by research from Sawyer et al. (2009), McEachern and Warnaby (2008) and Hoogland et al. (2007).

8.4 Judgement and conclusions

Based on the results presented in the section above, **it is concluded that the overall control system of organic farming is largely adequate in terms of achieving the global objectives of the Regulation, but with some shortcomings as regards its implementation**, taking the following into account:

- Annual inspection requirements are adequate to ensure fair competition and consumer confidence, although risk-based approaches could achieve the same aims at lower costs. However, guidance at EU level may be necessary to ensure a harmonised approach.
- Additional risk-based inspections required by the Regulation are in general an adequate tool to ensure fair competition and consumer confidence. However, they are implemented differently across the Member States and in several countries only to a limited extent. At present, the full potential of risk-based approaches is not exploited. Further development of risk-based approaches is necessary so that they can be applied to the organic control system.
- Exemption from the control system for operators who sell products directly to the final consumer or user are adequate and justified in cases where such operators only sell packed

and labelled food. In such cases, the upstream actors of the organic supply chain were already subject to the control system. However, there is an indication that this exemption is only justified if the supervision system ensures that such retail businesses are notified to the respective competent authorities and that the conditions for the exemption are periodically verified.

- Not all elements of the control system are consistently implemented across the Member States. This leads to a situation whereby, between Member States and even within one Member State, organic operators and products could be differently evaluated with respect to residues, and also operators could receive different sanctions for committing the same infringement. Thus for these areas, fair competition among organic operators and among control bodies cannot be not guaranteed.
- There is no robust indication that the distribution of responsibilities among the main actors involved in the control system is inadequate.
- The national supervision systems are not fully adequately and effectively implemented in some Member States due to insufficient procedures for supervision and limited resources of competent authorities to fulfil the supervisory role.
- There are some deficiencies in the exchange of information illustrated by the analysis of the recent organic fraud case.
- Consumers largely have confidence in the organic control system. But this trust is built upon perceptions and not on factual knowledge.

Detailed considerations

The aim of Evaluation Question 3 is to evaluate to what extent the overall control system of organic farming, from the Commission, through Member States competent authorities, control authorities, control bodies and accreditation bodies, has been adequate to achieve the global objectives of the Regulation. If the control system does not effectively ensure full compliance with the rules across all Member States a) fair competition among organic farmers within the EU and b) consumers' confidence in organic products is not guaranteed. Therefore, it is particularly relevant to assess the functioning of the control system by evaluating whether or not the established processes and practices do lead to unfair competition or barriers to the production and marketing of organic products. The marketing of organic products would also be distorted if consumers' confidence in organic products was not ensured.

The judgement is based on documentary analyses (cross-country comparison) of the control procedures that have been implemented, interviews with national competent authorities and control bodies from 13 Member States, the case study results from the 'Gatto con gli stivali' fraud case, data from the CERTCOST-project, the consumer survey, and the review of scientific literature and public documents. An important information basis was the stakeholder survey which was responded to by 265 European stakeholders.

Adequacy of the annual inspection requirements

Annual inspection requirements are adequate to ensure fair competition and consumer confidence. But risk-based approaches could achieve the same aims at lower costs.

There was consent between all stakeholder groups surveyed that mandatory annual inspections are important measures to ensure fair competition among organic operators and to ensure consumer confidence in organic products. Indeed, mandatory annual inspection is often used in the organic sector to demonstrate the integrity and authenticity of organic products to the consumer. It seems to be a convincing argument which is easy to communicate to the consumer: organic operators are inspected every year. Scientific literature shows that consumer trust is connected to the perceived strictness of the standards and regular controls. However, scientific literature also reveals that consumers have a very limited knowledge about the organic control system. Consumers have trust in the actors or logos rather than in specific elements of the organic inspection system. For consumers it is important that the certification process is trustworthy and that it ensures compliance. According to scientific literature, control bodies comply with the requirements of the Regulation of at least one annual control plus additional random controls. However, the share of unannounced controls varies considerably between control bodies and the Member States.

Scientific literature shows that the amount of the certification fee is not marginal, does matter to organic operators and loads the consumer price for organic products by around 1 %. As certification costs are particularly determined by the number of on-site controls, those could be reduced by reducing the number of on-site control visits for instance by strengthening risk-based inspection approaches. Scientific literature so far provides no evidence that annual inspections are the prerequisite for high detection rates of non-compliances. However, there is a body of literature suggesting that risk-based approaches ensure non-opportunistic behaviour of operators. There is evidence that the probability of non-compliance is higher for operators who have already been non-compliant and low for operators who are compliant.

In contrast to the annual visit of each organic operator, other areas work with considerably lower control frequencies. For example, the EU legal framework for the rural development programmes requires annual on-the-spot checks of 5 % of all beneficiaries (which could be halved under certain conditions).

Adequacy of the additional risk-based inspection

Risk-based inspections are in general an adequate tool to ensure fair competition and consumer confidence. But the application of additional risk-based inspection is done differently and to a limited extent in the Member States.

There was consent between all groups of stakeholders surveyed that additional risk-based inspections are important measures to ensure fair competition among organic operators. In line

with the provisions of Article 27(3) of Regulation (EC) 834/2007 and Article 65(4) of Regulation (EC) 889/2008 control bodies should apply systematic risk assessments of their operators against risk factors linked to the nature of their operation. However, the documentary analysis showed that not all Member States have established national guidelines for risk-based inspection and thus risk-based inspection is done differently and used to different extent across the Member States. This is confirmed by both, stakeholder responses and scientific literature which highlights that there is no harmonised understanding of what criteria for risk-based inspection could be used and how exactly risk analysis should be carried out.

There is broad consent among the stakeholders surveyed and interviewed and in scientific literature that risk-based inspection could a) improve the organic control system considerably and b) reduce the certification costs for organic operators as a result of reducing the number of on-site control visits for low-risk operators. Scientific literature suggests comprehensive and dynamic risk-based approaches which determine auditing intervals, auditing depth, unannounced spot checks and differentiated auditing focuses, cross-checks along the entire supply chain and targeted sampling and testing. These suggestions from research go beyond the currently used approaches for additional risk-based inspection and still need to be further developed so that they can be used in the organic control system. Furthermore, such dynamic approaches are not compatible with static approaches like mandatory annual control visits. Thus the full potential of risk-based approaches is currently not used in the organic control system.

Adequacy and justification of Article 28(2) of Council Regulation (EC) 834/2007 which allows Member States to exempt operators who sell products directly to the final consumer or user from the control system

Exemptions from the control system for operators who sell products directly to the final consumer or user are adequate and justified in cases where such operators only sell packed and labelled food.

Article 28(2) of Council Regulation (EC) 834/2007 enables Member States to exempt retail operators who sell products directly to the final consumer or user from the control system if these retail operators do not produce, process, pack, label or store organic products elsewhere, do not import organic products from third countries and/or outsource these activities to a third party. All 13 case study countries use this article and exempt retailers which sell packed and labelled food. The results of the web-based survey showed that stakeholder views vary whether retailers should be exempted from the control system or not. Opponents, particularly producers and control bodies/control authorities, favour the inclusion of the retail sector in the control system to a large extent because retailers are in direct contact with the consumers and therefore have a particular responsibility to ensure consumer confidence. However, both stakeholder groups might have vested interests (non-exclusion of the perceived most powerful actor, principle of same requirements for all, business opportunity for control bodies if all actors of the supply chain are included). A few stakeholders mentioned the risk of commingling organic products with conventional products and incorrect labelling. However, 19 stakeholders (among

them 6 control bodies, 3 competent authorities, and 2 national authorities) take the view that retail of packed food does not bear any risk of commingling and incorrect labelling. In cases where retailers sell packed and labelled food, the upstream actors of the organic supply chain are subject to the control system. Additional controls of retailers which sell the packed and labelled food may increase costs for the retailers but might neither increase consumer confidence nor fair competition among organic operators.

This view is supported by the only research study identified in this context (Neuendorff, 2012) which argues that there is a low risk of commingling with conventional products and incorrect labelling on the basis of 2005-2011 inspection data of one German control body.

The German study by Neuendorff (2013), on the other hand, showed one problem which was not raised by stakeholders: Retailers which start preparation or processing activities and which do not submit their activities to the control system as required could be rarely identified and penalized by the competent authorities. Thus, the exemption of retailers selling only packed and labelled food is only justified and adequate if the supervision system of the Member States can ensure that such retail businesses are notified and the conditions are periodically verified.

Level of harmonization/consistency in the Member State's procedures of setting-up national control systems and the differences in the control procedures

The results of the documentary analyses in the case study countries, the stakeholder survey and research results indicate that not all elements of the control system are consistently implemented in the Member States.

The documentary analysis conducted in the case study countries identified areas which are regulated differently in the Member States, namely risk-based inspections, residue sampling, testing and analysis, issuing of sanctions, and accreditation processes for control bodies. Furthermore, the review of scientific literature identified differences in the number of unannounced controls. These areas were also mentioned by the stakeholders.

All stakeholder groups agreed that an explicit sampling and testing policy for control bodies and the definition of sanction categories contribute to ensure fair competition. However, Denmark, Germany, Italy and Slovenia were the only countries of the 13 case study countries where residue sampling and analysis of organic products is statutorily regulated, which in turn leaves in all Member States without statutory requirements the procedure for testing and analysis at the responsibility of the control bodies. Similarly, only four of 13 national case studies defined the issuing of sanctions according to Article 30 of Regulation (EC) 834/2007 (Germany, Estonia, the Czech Republic and the Netherlands). This leads to the situation that between Member States and in the case of regional implementation even within a Member State a) organic operators and products are evaluated differently with respect to residue testing and b) operators could be sanctioned differently for having committed the same infringement. For these areas, fair competition among organic operators may not be ensured. Difference in the control procedures

can also lead to unfair competition between control bodies within a Member State. This involves the risk that the way control procedures are implemented could influence operators' control body choice and might cause differences in the certification fees (risk of race to the bottom).

Research results and stakeholders suggest introducing a harmonised system for issuing sanctions. However, it is challenging to define non-compliance and sanctions in a uniform way without losing the flexibility required for acknowledging the specific context of each case, which in turn could also lead to unfair competition among organic operators.

The need for harmonisation of control processes between accreditation bodies across Member States was only highlighted by three German stakeholders (two competent authorities, one organic sector organisation). A similar conclusion was also drawn by Dabbert (2011) who argued in the CERTCOST-project that the effectiveness of mandatory accreditation on harmonised supervision procedures seems to be quite limited.

As far as residue testing and analysis is concerned, on the one hand stakeholders strongly demand a common EU framework, while at the same time there is also a great uncertainty between the Member States and within the organic sector as to how and to what extent residue testing and analysis should be regulated in the EU organic farming legislation. This contradiction might be due to two reasons: First, mandatory residue testing conflicts with the process oriented-approach of organic farming. As there is no scientific technology at hand which allows the unambiguous identification of whether a product has been produced in compliance with the organic rules or not, process orientated control is indispensable. In case of doubt, residue testing could provide evidence about the use of unauthorised substances. Second, there is a controversial discussion surrounding the question whether the introduction of thresholds on pesticide residues make sense or not. The supporters argue for clear criteria for control bodies to decide whether there may be breaches of the organic regulations or any irregularity. However, opponents argue that in a world of increasingly quickly degrading and prohibited pesticides, the introduction of a threshold would lead to the non-identification of prohibited pesticide applications and thus undermine organic integrity.

This conflict between setting clear rules and leaving flexibility to the Member States is also reflected in the results of the stakeholder survey. Particularly stakeholders from Denmark, Central and Eastern European countries and from the United Kingdom were slightly in favour of regional flexibility in the control system. Differences in the implementation of control rules might be necessary to acknowledge the different conditions for agriculture in the Member States. Stakeholders voiced the risk that the EU organic farming legislation regulates too much and does not leave enough space for effective controls.

However, to ensure fair competition, the implemented control procedures have to lead to the same result which is compliance with organic rules and comparable levels of sanction for similar severity of infringement. With respect to the areas identified where the control system does not

seem to be uniformly implemented in the Member States (residue sampling, testing and analysis, risk-based approaches, share of unannounced controls, and issuing of sanctions) there might be different ways to ensure that the control rules will lead to the same results. Therefore there is the need to distinguish carefully between a) areas where harmonisation needs to be achieved through more detailed and mandatory rules, b) areas which where providing general guidelines or a common framework would be sufficient, or c) areas which could be easily harmonized by providing information or information exchange platforms.

Adequacy of distribution of responsibilities among the main actors involved in the control system, including application of the accreditation system

There is no robust indication that the distribution of responsibilities among the main actors involved in the control system, including in respect of accreditation, is inadequate.

One Austrian control body, one Spanish competent authority and one Italian control body pointed out deficiencies in the responsibilities among actors involved in the control system. They mentioned scattered responsibilities between different national authorities, not well-defined links between the surveillance activities of competent authorities and accreditation. Due to the fact that these deficiencies were mentioned by only three interviewees and that these deficiencies were not raised in the stakeholder survey, the information basis is considered to be too weak to draw any conclusions. Only one Danish stakeholder mentioned deficiencies in the distribution of responsibilities accreditation bodies. Thus, there is no indication that distribution of responsibilities with accreditation bodies is an issue.

The 'Gatto con gli stivali' fraud case identified a problem related to allocation of responsibilities: detailed information about suspicious fraudulent organic actors identified by the tax investigation was not transferred to the Ministry of Agriculture, as the competent authority. This might point to the general problem that information on fraud cases detected by other actors cannot not be used by the actors of the organic control system.

Public surveillance system

The public surveillance system encompasses the entire EU framework of activities of national competent authorities and accreditation bodies as described in the EU organic farming legislation to supervise and monitor the organic control system at the level of the control bodies. The national supervision system is not adequately and effectively implemented in some Member States.

All competent authorities interviewed in the 13 case study countries indicated that the national approval and surveillance system is appropriate in the respective country and control bodies interviewed in France, the Netherlands, Poland, Bulgaria, Estonia and Slovenia were positive about the national surveillance system. Furthermore, also the French and German control body reported that the national supervision system is effective through the double requirements of approval by the competent authority and accreditation through the national accreditation body.

The positive view is however only partly confirmed by the results of the stakeholder survey. For example, 60 % of the control bodies from Central and Eastern European countries and 73 % of Italian control bodies responding to the survey mentioned that national supervision is not fully adequate and functioning. Furthermore, the control bodies interviewed in Italy, Austria, the Czech Republic and the United Kingdom considered the supervision system of the competent authority over the control bodies not to be fully effective. Moreover, several control bodies argued that the competent authorities of two Member States are not endowed with the financial and human resources that would be required to do the supervision properly and that the competent authority staff lack competence. While in the case study countries all competent authorities interviewed conduct annual office audits, only a limited number of witness audits were conducted in the United Kingdom, Bulgaria, and Italy and no witness audits were conducted in Poland and Slovenia. Only a German competent authority and organic sector organisation stated that control effectiveness of the accreditation bodies over the control bodies could be improved whereas the Slovenian competent authority reports that the accreditation body is very strict, reliable and impartial. Lack of technical competence in organic farming of accreditors was mentioned by two stakeholders from the United Kingdom and Portugal. The 'Gatto con gli stivali' fraud case study identified deficiencies in the on-site supervision of control bodies due to for instance ineffective control procedures or not controlling the right sections of an organic enterprise. The varying number of witness audits and the deficiencies identified in the fraud case might be due to the above-mentioned limited resources of competent authorities.

Furthermore, the stakeholder survey revealed that the information collected from competent authorities for supervision is often not used. Research found one case of obvious incorrect reporting by a German control body which was neither detected by the control body nor by the competent authority. This also indicates that at least some competent authorities do not check the information provided for supervision purposes carefully or do not use the information. The stakeholder survey and research suggest that this might be due to data structure and quality.

In some Member States the information collected in the course of supervision activities was reported to be not substantial and too focused on formal requirements, thus the information might not be useful for supervision. Also the European Court of Auditors (2012) observed insufficient procedures for supervision in some Member States.

Even though these might be single cases the findings presented about public surveillance system give an indication that some competent authorities may not fully fulfil their supervisory role over the control bodies. Supervision of control bodies is an important means to ensure both fair competition and consumer confidence. In some Member States, the implementation of the national supervision seems not to ensure these.

Information exchange between the actors involved in the control system

There are some deficiencies in the exchange of information illustrated by the fraud case study.

The stakeholder interviews showed that a continuous and mostly institutionalised information exchange is established between the control bodies at national level in most case-study countries. Furthermore, the control bodies indicated in the web-based survey that there is an established continuous dialogue between the control bodies and the competent authorities in most countries.

However, the results from the 'Gatto con gli stivali' fraud case study highlighted deficiencies in information exchange which at least facilitated the fraud. First, there was a lack of information exchange between different national control bodies controlling different areas of the same operator. Furthermore, there were two different control bodies involved in the process and there was also a lack of information exchange between the original control body and the one that took over later. Thus, even though there seems to be an established dialogue between control bodies in Italy, in this specific case, no procedures were effective in ensuring information exchange to impede fraud. Second, information exchange was lacking between control bodies active in different Member States which made it difficult to prove the authenticity of certificates. Finally, information exchange between competent authorities to identify and to report operators and lots affected by the fraudulent activities on the national level was too slow so that the fraudulent lots were already sold and thus could not be taken from the organic market. Thus, information exchange across competent authorities in the affected Member States did not function in the actual fraud case.

Deficiencies in the exchange of information have also been revealed by the European Court of Auditors (European Court of Auditors, 2012). The court found in two Member States which have been visited that the information flow between the control system for organic production and for policy support under the agri-environment measures to be insufficient. This again stresses the lacking of interfaces between actors of the control system and, in this case, actors responsible for agri-environmental schemes.

Consumers' confidence in the organic control system

Consumers largely have confidence in the organic control system.

The consumer survey revealed that consumers trust largely in the actors of the organic control system but their trust is not very pronounced. This is confirmed through scientific literature showing a high level of consumer trust in inspectors controlling organic operators, which is significantly higher than consumer trust in organic labels. However, there is evidence from various researches that consumers' knowledge about the organic control system is very limited. Stakeholders perceive the procedures of the control system to be effective to ensure consumer trust, even though consumers have almost no knowledge about these procedures. Trust is built upon perceptions and not on factual knowledge which might be due to lacking or not tailored consumer information about organic farming and its control system.