

Preventing, detecting, addressing frauds

First draft for "What authorities and supervisory bodies can do"
07.09.07

This is a first discussion paper intending to be discussed among authorities and further on among the participants of the Workshop "Dealing with Frauds in Organic Production" at FiBL, Switzerland on October 2., 3., 2007.

Authorities are obliged to implement the legislation and they are bound to the legal requirements. Nevertheless there is a lee way on how much to do and how to prioritize things. The following paper is focusing on the lee way – what can be done in the given framework to reduce the risk of fraud.

The intention of this paper is not to increase the requirements in the inspection system but rather to improve its efficiency. There is already a huge load of requirements organic suppliers and actors in the control chain have to comply with, one should be cautious inventing new ones. Last but not least, the vast majority of players in the control chain are complying with the rules and they should not suffer from the few that don't. Special action should be targeted at where it is needed, not across the board.

Communication and Cooperation

Communication among the players is particularly important and should be improved to increase transparency in this system. The role of the authorities is double bound, they are part of the process and need to communicate among themselves – internally, cross-border among authorities and with the certification bodies and eventually the traders/suppliers. Furthermore in their role as supervisory bodies they need to insure that there is enough communication among the players, especially concerning an efficient communication of certification bodies (e.g. by cross-checking the reaction time for responses).

Cooperation among authorities in the Member States may be further improved by establishing communication tools which allow for regular and personal exchange of experience cross-board (meetings, databases, chat-rooms...) and which allow for development of specific measures for areas with an increased risk of fraud (e.g. if there are cumulative indications for irregularities for specific products or products from a specific region). Each country should identify a contact person dealing with /being informed on irregularities and frauds arising with products and certification bodies falling under the authority of that country.

Suppliers are subject to other controls than organic inspection, e.g. food and feed surveillance, wine control, subsidy programmes. Regular communication and coordination with these authorities and identification of interfaces allow better detection and follow-up of irregularities, also in cases where these irregularities are conducted by players which are not in the system.

Follow-up on suspicion of fraud and detected fraud

For follow-up on fraud whether suspected or already detected it is usually of utmost importance to react very quickly. Authorities should establish internal deadlines for reaction on notifications of suspected or detected fraud.

Furthermore a rapid warning system should be established to allow cross-boarder information in case of fraud or justified suspicion of fraud – using modern data-based communication systems and allowing immediate communication with competent authorities and certification bodies.

It is further necessary to establish a discrete central international complaints mechanism which allows people from all over the world to notify complaints and suspicion of fraud. Such an institution might be private or on EU level. It should collect and evaluate warning notices and complaints, forward them to responsible authorities where applicable and assess complaints where no appropriate authority could be identified. Such a body can further assist certification bodies and authorities to investigate frauds, especially those with an international dimension.

Supervision by authorities and accreditation bodies

The inspection and certification system is well developed and applied in the European Union. Nevertheless enforcement of the existing standards and requirements may sometimes be improved and the effectiveness of inspection measures be better surveilled. Taking into consideration that 95 % of the suppliers comply with the given norms, it is the 5 % which should be focused on and where the system has to be intensified. Therefore it is necessary to develop tools and measures to assess the effectiveness of risk oriented measures quantitatively and qualitatively in the process of approval, accreditation and supervision of certification bodies. In the surveillance of certification bodies by authorities and/or accreditation bodies more focus shall be given to:

- Assessment of the effectiveness of the risk oriented inspection scheme (risk categories and subsequent measures)
- Assessment of effectiveness of input-output calculations conducted in the course of inspections
- Assessment of system for residue testing (effectiveness of procedures concerning risk orientation, share of samples analysed)
- Assessment of system for nature and frequency of announced and unannounced inspections (effectiveness of procedures concerning risk orientation, share of total inspections and unannounced inspections per operator, taking also into consideration Art. 27.3 of the new Council Regulation 834/2007).
- Assessment of cross-checks for verification of the product flow among certification bodies at random basis and in case of irregularities.
- Enforcement of the duty of certification bodies for exchange of information in case of suspicion or detection of fraud. (This could for example be done by reacting on complaints of other CB's if a CB is not reacting within an agreed timeframe but also by checking communication activities in the evaluation process.)
- Enforcement of obligation to publish certified operators as well as de-certified and suspended operations.

- Assessment of cases where one operation is certified by two or more certification bodies.
- Comparing annual reports of certification bodies indicating irregularities and applied sanctions and assessing those cases which deviate considerably from the average.

For an efficient surveillance intensive capacity building is necessary, i.e. qualification criteria for surveillance personnel must meet at least or rather exceed the criteria of certification body personnel.

Implementation by the EU

The new Council Regulation on organic farming requires revision of the technical annexes of the current regulation 2092/91. This revision allows for further strengthening of a risk oriented approach in the inspection system.

In the course of elaboration of implementation rules for the revised import scheme a system for a thorough supervision of the activities of certification bodies acting in third countries shall be implemented. This requires a supervision system run by institutions qualified and trained for the specific requirements of the EU regulation on organic farming and an appropriate approval system in the EU.

It is further recommended to continue with the evaluation of implementation of the EU Regulation on organic farming in the Member States as conducted in the years 1998-2001 and to insure an appropriate follow-up.

In Short

- Improving the communication in the authority and with the sector.
- Intensifying cooperation among authorities by establishing communication tools which allow for regular and personal exchange of experience cross-board
- Intensifying cooperation with other food surveillance authorities.
- Establishing internal reaction deadlines in case of suspected or detected fraud.
- Establishing a rapid warning system to allow for exchanging information on fraud or cases of substantial suspicion of fraud.
- Establishing a central international complaints mechanism
- Focusing on an effective risk orientation in the supervision of certification bodies
- Intensive capacity building among surveillance personnel.
- EU Regulation: strengthening a risk oriented approach and establishing an efficient supervisory system for certification bodies acting outside the EU.
- EU: Evaluation of implementation of EU Regulation in the Member States