

## **IFOAM EU Position Paper on Residue Threshold in Organic Products** **Challenges and consequences of threshold levels as certification tool in organic production**

**26 February 2014**

Organic production aims to be free of pollutants and substances not allowed in organic production such as GMOs, pesticides and fertilizers, by not using these substances for environmental and health reasons. However, focusing on threshold levels as a key organic certification tool would undermine both the organic principles and process quality approach of inspection and certification in organic production. This paper outlines why.

### **95% of the EU's arable land is managed conventionally**

Pesticides and other agrochemical substances are allowed and are effectively used on the vast majority of this land. Only 5% of arable land is managed organically – without the use of these inputs. It is in this context that the discussion on residues must be situated.

Organic production does not use e.g. synthetic pesticides and fertilizers and other prohibited substances. However, their widespread use by the majority of operators in the food chain creates a substantial risk of contamination. This is especially the case for crops, as the pollutants which can be easily detected from the technical point of view, such as pesticides and GMOs, are well known to travel by air, ground water or being transferred by handling in the food chain. The food sector is operating in an open system.

For example, from 2009 there has been an increasing of Biphenyl findings in herbs, almost 70% of them exceeded the general maximum residue level of 0.01 mg/kg but after investigation there was no proof that the requirements of the organic regulation had not been followed. The cause was instead allocated to the general environmental pollution with Biphenyl related to natural (mineral oils and their products of combustion) and technical sources (colours, preservatives, petrochemical industry)<sup>1</sup>.

### **Organic products contain fewer residue findings than conventional ones**

The findings match the practices. In organic fruit pesticide levels are about 500 times lower than in conventional fruit<sup>2</sup>. This reflects organic consumers' desire to support a food and farming system that avoids pesticides.

A study from the Öko Monitoring Baden Württemberg<sup>3</sup> shows that, over 10 years on average, pesticide residues were detected in 30% of samples taken from the most exposed products being fresh organic fruits and vegetable, but in only 5% of the samples, was there a suspicion of infringements or irregularities regarding the organic regulation<sup>4</sup>. Therefore the majority of findings are not related to a deviation from the organic regulation requirements.

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<sup>1</sup> "Organic thresholds for GMO and pesticides?"; Bundesverband Naturkost Naturwaren (BNN)

<sup>2</sup> <http://oekomonitoring.cvuas.de/berichte.html>

<sup>3</sup> [http://www.mlr.baden-wuerttemberg.de/mlr/bro/Oekomonitoring\\_10%20Jahre.pdf](http://www.mlr.baden-wuerttemberg.de/mlr/bro/Oekomonitoring_10%20Jahre.pdf)

<sup>4</sup> Article 91 Regulation (EC) No 889/2008

Unfortunately, not using forbidden inputs cannot guarantee residue-free organic products given the current dominance of a production system that employs these substances. Consumers should be properly informed about the reality and the difficulties that in particular small organic farmers face every day to protect themselves from different kind of contaminations.

### **Decertification would punish the innocent and in particular small farmers**

Setting a decertification threshold would make farmers liable for contaminations caused by third parties, even if their production is fully in line with the organic rules and even if the contamination is beyond their control. For example, an organic farmer located next to a non-organic farmer must make the effort to and pay the cost of protecting his/her production from the chemicals used by his/her neighbor, although s/he is not using these substances. This is especially onerous for small and medium size farmers.

A residue finding at the end of the production line will most probably mean that the farmer is the one not receiving payment for the crops he delivered, even if the contamination occurred somewhere in the transport, storage or processing phase. The only way to prevent this would be to take samples of every crop harvested at farm level to be prepared for possible discussions, even if the farmer is completely sure of the quality of his/her products. But the cost and administrative burdens would be much too high, especially for small operators.

Farmers with small plots, especially ones that are not contiguous, and with low financial resources will have to give up their organic certification as the risk for decertification would be too high. The same principle applies to small and mid-size processing operations.

### **Overreliance on sampling and testing**

Taking samples and interpreting the results of analyses is one tool among a broad range of methods like cross checks, unannounced and/or focused audits, traceability checks used to verify compliance with the rules for organic production. It has been reinforced by the requirement to take a minimum number as of 1 January 2014. As we have understood, this was mainly taken up to prevent fraud; however the effectiveness of this approach still remains to be seen. Before introducing new rules for thresholds for “not allowed substances,” the new sampling rule taking effect in 2014 should be implemented and evaluated. Experience shows that only few investigations that follow a finding are positively finalised. Instead the majority of investigations are not able to identify the contamination sources.

Furthermore, the results produced by analyses are strongly influenced by the way the sample is taken, type of product, different types of contaminants, testing systems chosen and laboratory carrying out the analyses. If the level of residue is the decisive factor in whether a product can be labeled as organic or not, the security and reproducibility of analyses have to be raised to 100%. This is currently far from being the case<sup>5</sup>. A study of Lach&Bruns in 2013, in order of Skal and Bionext, showed that only 2 of 15 labs were able to give accreditation-proof information about their analyses results. And it showed that there are great differences between lab results on individual substances like glyphosate. Further 70% of all accredited EU-labs are not able to have a good result in the annual ringtest, which means they are not able to detect the right substances.

These problems of analytical uncertainties are widely experienced in the food market with the existing “normal” MRL for pesticides. Operating on much lower thresholds will tremendously increase the problems with uncertainty behind analytical results and cause legal problems and conflicts between operators and control bodies.

Making it obligatory for control bodies to check products to verify this level would block the organic market. The enormous costs for sampling and testing would have to be fully borne by the organic sector leading to a further increase in costs for the sector. In turn this would lead to an increase in price and reduce the market for organic products, while process quality will not be improved and incentive for fraud will not decrease.

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<sup>5</sup> The measurement uncertainty is 50% between European labs

## **The organic production process cannot be tested in end products**

The simple concept:

- residue above a fixed level = non organic
- residue below that level = organic

does not fit with the complex idea behind organic farming, processing and quality of products, and would be a paradigm shift away from process-based controls which are founded on the organic principles.

The end product quality check system has already been strengthened by the proposal to fully integrate the control provisions for organic in the proposal to revise Reg. (EC) 882/2004 for food and feed security. Organic controls and certification are not essentially about the quality and security of an end product; they are about a labeling scheme based on a process approach along the food chain that represents the wholeness of a process which delivers valuable goods to the environment and people, including not using harmful substances. It should be noted that most of the organic requirements such as crop rotation, free range for animals, and proper documentation cannot be checked by analytical testing.

Setting a threshold level would feed a false interpretation of organic quality as an end-product produced in a clean environment. If testing becomes the main barometer, organic will be defined by default as being tested and free of residues or below the set threshold, and it would be a short step to transform conventional “clean” products into organic ones.

### **Consumers support the organic “no” to not allowed substances**

The idea of residue (mainly pesticide) free organic products is nourished by the argument that consumers expect that organic food is free of residues. In the public consultation carried out in 2013 by the European Commission the first reason for consuming organic products was “I’m concerned about the environment” with 83% of the answers<sup>6</sup>. In scientific studies environment is usually at the top of the list for reasons for which consumers choose organic together with healthier food, less chemicals within the food, animal welfare, etc. A careful interpretation would suggest that consumers see the non-use of chemicals that contaminate the environment as one of the main advantage of organic production.

Whether or not thresholds or other measures are the right instruments to achieve this, is a technical question most consumers cannot judge as they largely are not sufficiently informed about the technical aspects of organic farming and the organic control system, as also shown in the above mentioned consultation.

### **Thresholds will not decrease the incentive for fraud**

The argument that this new concept would help to prevent fraud was mentioned several times. Prominent fraud cases also seem to be the driver for the new draft organic regulation as a whole. It is important to point out that these cases would not have been detected earlier if thresholds had been implemented. These fraudulent products were of course “clean”. The criminal minds behind such frauds are clever enough to check before cheating. As long as the economic incentive for selling conventional products as organic is high enough, criminal energy will be there to do so. This will not be prevented by thresholds, nor by other stricter rules for production and inspections, where again the innocent have to pay the price.

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<sup>6</sup> [http://ec.europa.eu/agriculture/organic/documents/eu-policy/of-public-consultation-final-report\\_en.pdf](http://ec.europa.eu/agriculture/organic/documents/eu-policy/of-public-consultation-final-report_en.pdf)

## Conclusions

For these reasons:

- 95% of the EU's arable land is managed conventionally
- Contamination is the key cause of residue findings
- Decertification could punish the innocent
- Overreliance on sampling and testing
- The organic production process cannot be tested in end-products
- Consumers support the organic "no" to non-allowed substances
- Thresholds will not decrease the incentive for fraud

we strongly advise not to **automatically** exclude products containing residues of products or substances that are not authorized in the organic regulation beyond a certain level. Instead of an automatic exclusion, when products or substances are found in organic products, control bodies and authorities should investigate in order to determine if the producer has been the victim of an involuntary and unavoidable contamination, or if the producer has not respected the organic principles. In this case decertification should be the sanction, notwithstanding the level of contamination, as it is done to date.

Furthermore, horizontal policies and a new European Organic Action Plan should include measures that support small and medium farmers which cannot protect themselves from unavoidable and involuntary contaminations.

- **For all these reasons IFOAM EU recommend to delete amendments to Article 23(1)(d) and 23(4)(i) of the Commission proposal for a regulation on official controls on food and feed as provided for in Article 39(3) of the leaked Commission proposal for a new organic regulation**