

MSc Thesis Law and Governance Group

Food Safety Law

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Implementation of organic principles
and control system in European and
national legal framework

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Abstract

The organic sector is expanding at high growth rate and, despite an European legal framework, few principles are not translated in measurable environmental indicators and not evenly applied along the supply chain. Mass catering and pet food are not harmonised but, from the consumers, they are perceived as guaranteed by European regulations. Non-conformities and fraudulent behaviour are prosecuted differently in Italy and in the Netherlands. Dutch consumers are also more confident on the application and enforcement of the regulation and they purchase organic items more frequently than Italian consumers. Organic wines contain slightly less sulphur dioxide than conventional ones depending also on the climatic conditions of the country in which they are produced. A range of policy changes can be advised in order to guarantee a fair level playing field among producers and increase confidence among consumers.

Key words: organic principles, implementation, organic wine, infringements, irregularities, consumer's confidence, mass catering.

Executive summary

Objective: Objective of this research is to understand how organic principles are translated into European legislation, to compare implementation of the regulations and compulsory controls and to investigate consumer awareness in order to assess whether a level playing field exists in the organic sector. This paper will evaluate if a potential different interpretation of the Regulations (ex. Infringement and Irregularities, oenological standards) among Member States can be still considered "harmonization" to the common legislation and its objectives. This paper will also investigate if the legislative gap in regard to other

organic sectors (ex. Catering) can still create a fair market, protection and trustworthiness towards consumers. To have a better understanding, two Member States have been chosen as part of a case study. (Italy and the Netherlands).

Methods: A desk research will investigate European regulations related to organic productions, official communication by the Commission, press release, web sites and publications by major stakeholders as well as scientific articles by research institutes. In addition an empirical research has been carried out utilising expert interviews and consumer surveys

Findings: Principles embedded in the European organic regulation were pointed out on the base of the ideas of health, ecology, fairness and care and were compared with their application along the food chain, their controls, etc.

Organic sectors not covered by the common organic legal framework, such as mass catering, are regulated differently in the two countries.

The only Control Authority in the Netherlands and the several control bodies in Italy have similar definitions of infringement and irregularity but have different methods to deal with them and with fraudulent behaviours.

Dutch and Italian consumers show different purchasing patterns and perceptions towards regulations. They also show different levels of confidence on the effectivity of the legislation and its enforcement.

The use of sulphites in organic wine production is crucial to obtain stable productions in different socio/climatic conditions but it is also a sensitive topic among producers and consumers. A similar wine produced in different Member States can show a wide difference in sulphites content.

A certain number of policy changes can be advised to create a more balanced and fair playing field, as well as increasing trust and awareness in consumers.

Conclusions: The work lead to answer to the main research question and sub-questions as briefly summarised here.

1. What are the organic principles embedded in the European organic legal framework?

The principle of health is implemented via the adoption of positive lists of substances allowed in organic productions. The principle of ecology is implemented via the enumeration of maximum quantities of recycled inputs and through a number of indications on efficient management of production systems. The principle of fairness is implemented via the concept of flexibility among Member States while the principle of care via a total ban on the use of GMOs, through the use of a precautionary principle and on enhancing the exchange of data between actors of the organic sector.

2. Are those principles translated into measurable standards or procedures and are they verified via official controls?

Just a few principles are translated into measurable standards and applied along the entire food chain. Operators of the primary production sustain a great load of mandatory actions while processors, distributors, transporters and retailers are less involved.

3. Are there differences in the implementation of the regulations, specifically in the catering sector, between Italy and the Netherlands?

Despite the importance of the use of organic ingredients, especially in the public catering sector, in Italy there's no national legislation that regulates the market. At a regional level the public administration set up private contracts with caterers to ensure certain kinds of requirements for the supply of organic meals in schools and canteens, but the private sector (restaurants) is left to voluntary standards. From the survey it seems that consumers believe that the mass catering is also covered by harmonised regulation, which it is not, and this can lead to unpleasant misuses of the word "bio".

In the Netherlands the catering sector is not regulated and it's also less developed in terms of monetary return. If in Italy catering services are mandatory for schools and public offices, in the Netherlands canteens are not regulated and, where present, are private businesses. The

certification for restaurants to organic private standards, offered by the Dutch control authority SKAL, is voluntary and the use of the word “bio, organic, etc., is not controlled.

4. Are the measures for infringement and irregularities similar and clearly stated in the “*contract*” that every producer has to subscribe with the control body/authority?

On the two countries object of the study, the Italian control bodies and the Dutch control authority are quite clear on their contract with the organic operators. Skal in the Netherlands added all kinds of details in the contract while ICEA and most part of Italian control bodies refer to the legislation.

5. To what extent do the national control bodies/authorities consider infringement or irregularity and at what stage does fraudulent behaviour take place?

In general it’s possible to affirm that control bodies/authorities divided non-conformities into three major categories depending on the gravity. Fraudulent behaviour is detected case by case and on the basis of the frequency of a certain action

6. What are the differences in consequences attached to fraudulent behaviour in the two countries?

The wider freedom to act, characteristic of the Dutch Control Authority Skal, especially on quickly interpreting and dealing with non-conformities and irregularities also via direct financial sanctions, seems to have an affect on limiting the number of fraudulent behaviours. In Italy the distribution of powers is more fragmented and the sharp division between control and enforcement seems to weaken the capability to react to fraudulent behaviours.

7. Are consumers in Italy and in the Netherlands aware on how legislation affects the organic productions, and are they confident on how it is applied?

Italian consumers responded to the question in a similar way despite socio-cultural differences in the two cities subject of the survey. In Italy consumers purchase less often than in the Netherlands despite having similar knowledge of the regulations and of the European organic logo. In both countries respondents believe that catering and pet food are subject to the common legal framework and show similar confidence on the application and enforcement of the organic rules. They show rather a similar perception on the principles implemented on the legislation. What is statistically different is the confidence on detection and prosecution of non-conformities. Dutch consumers are more confident than Italian consumers.

8. Upon applying the concept of flexibility can an organic wine, which is produced under the same regulation in different Member States, still be considered the same product, and if so, does it effect the fairness of the playing field?

If organic wine producers have to mandatory declare the content of sulphites on the label, consumers will be aware of the wide differences among a similar kind of product also in respect with conventional ones.

9. What kinds of policy changes can be advised at national or EU level in order to insure an even more balanced relationship and fairness among stakeholders?

In general the advice is to deeper implement organic principles along the food chain, especially in regard to active actors that until now were less involved in assuring health, ecology, fairness and care. Catering and pet food seems to be sectors that, despite not being included in the common regulation, are important for consumers and that can generate a threat to the right of information and freedom of choice. Despite the necessary use of sulphites in organic wine making, great effort should be addressed in scientific research related to decreasing the dependency to these substances.

Definition/Abbreviations

ADI: Acceptable Daily Intake.

AIAB: Associazione Italiana Agricoltura Biologica.

AGOF: Advisory Group in Organic Farming.

Art.: Article.

BEUC: Bureau Européen des Unions de Consommateurs

CAP: Common Agricultural Policy.

COFALEC: CONfédération des FABricants de LEvure de l'UE

COPA/COGECA: Comité des Organisations Professionnelles Agricoles /

CONfédération GENérale de la Coopération Agricole.

DG: Directorate General.

DG SANCO: Directorate General SANté et COnsommateurs.

EAFRD: European Agricultural Fund for Rural Development.

EEC: European Economic Community.

EC: European Community.

EU: European Union.

EU-15: Countries that joined EU before 2004.

EU-12: Countries that joined EU after 2004.

EU-27: present number of Countries that joined EU before Croatia.

FVO: Food and Veterinary Office.

EUROSTAT: Statistical Office of the European Communities. European

Commission Directorate-General located in Luxemburg

GDP: Gross Domestic Product.

GFL: General Food Law.

GMO: Genetic Modified Organism.

GM: Genetic Modified.

GMPs: Good Manufacturing Practices.

ICEA: Istituto Certificazioni Etiche e Ambientali

ISTAT: Istituto Nazionale di Statistica. National Institute of Statistic.

IFOAM: International Federation of Organic Agriculture Movements.

ISSG: International Service Steering Group.
IT: Information Technology.
IT: Italy
LSU: Live Stock Unit.
MiPAF: Ministero Politiche Agricole e Forestali
NL: The Netherlands.
OQT: Optional Quality Terms.
PGI: Protected Geographical Indication.
PDO: Protected Denomination of Origin.
Reg.: Regulation.
SCOF: Standing Committee Organic Farming.
SKAL:
SPSS: Statistical Package for Social Sciences.
TSG: Traditional Specialities Guaranteed.
UK: United Kingdom.
USA: United States of America.

1. Problem and goal

Preamble: *the first chapter of this paper contains an introduction describing the organic production in Europe, the problem definition, the research objective and the research question with relative sub-questions. The last two paragraphs of the chapter will explain materials & methods and research framework.*

1.1 Introduction

The most recent data¹ showed that in 2012 the European organic sector reached a total market value of 22.8 billion euros with more than 10 million hectares of agricultural area (6% increase compared with 2011) and more than 250.000 producers.

More detailed information² confirmed that during the period 2002-2011 the total converted and in conversion agricultural area doubled in Europe. EU-15³ represented more than 80% of the share compared with EU-12⁴ which are still lower than 20% but with an annual growth rate of 13%.

186.000 farms are currently recognised as organic. These are generally smaller than conventional farms and are managed by younger persons.⁵ Male producers are generally more numerous than women but, compared with the conventional sector, the latter are in constant increase and with more vocational training. Women in Italy and Austria lead more than 30% of enterprises, while this number drops to less than 10% when compared to the Netherlands, UK and Germany.

¹ FiBL & IFOAM, "The world of Organic Agriculture 2014". Frick and Bonn. Pp. 193-216

² European Commission, 2013, "Facts and Figures on organic agriculture in the European Union". Available on the internet at: http://ec.europa.eu/agriculture/markets-and-prices/more-reports/pdf/organic-2013_en.pdf (last accessed 30.05.2015)

³ EU-15 represent Countries that already joined Europe before 2004 namely: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, United Kingdom.

⁴ EU-12 represent Countries that joined Europe after 2004 namely: Czeck Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia, Malta, Cyprus, Bulgaria, Romania.

⁵ Conventional farm size in EU: 15 hectares. Available on the internet at: http://europa.eu/rapid/press-release_MEMO-13-631_en.htm (last accessed 1.6.2015)

Singularly in Italy the area dedicated to organic agriculture is on a negative trend this could represent a certain maturity of the sector and in general for the products that the country can produce under organic standards or for limitations linked with the specificity of the Italian system such as farm size.

In EU-27 almost half of organic farms have a size lower than 12 hectares. The report says that in Italy the average size is even smaller.⁶

In EU-27 permanent pastures represent almost half of the organic area, followed by cereals and permanent crops (olives, fruit trees, vines, etc.).

The animal sector is dominated by sheep that represent circa half of the production, followed by cattle and poultry. Pigs and goats represent a total 10% in the entire animal husbandry production.

The sector is registering, in almost all countries representing EU-27, the most significant increase in terms of LSU⁷.

The largest producers are Austria, France and UK.

The poultry sector is comprised mostly by laying hens, due to the strong request of organic eggs.

The OrganicDataNetwork⁸ shows that there are almost 40.000 organic processors, which are mostly operating in countries that joined EU before 2004. The fact implicate that in general processing infrastructure are not yet well developed in many countries.

According to the most recent data collected and shared by IFOAM, in 2012 the world organic market size reached the impressive amount of 63 billion US dollars with a total expansion of 170% since 2002.⁹ The average annual per capita consumption of organic products is less than 10 US dollars but, in

⁶ The average size of EU farms is quite contradictory. The Commission FAQ webpage states that average farm size in Europe is circa 12 hectares while EUROSTAT official data (2011) the average size is 14 hectare with an average Italian value for conventional farms little below 8 hectares. The latter value is confirmed also by the Italian Official Statistical Institute ISTAT.

⁷ Live Stock Units: The reference unit used for the calculation of livestock units (=1 LSU) is the grazing equivalent of one adult dairy cow producing 3 000 kg of milk annually, without additional concentrated foodstuffs. One sheep represent 0.1 LSU and one pig 0.3 LSU.

Available on the internet at: [http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Glossary:Livestock_unit_\(LSU\)](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Glossary:Livestock_unit_(LSU)) (last accessed 30.05.2015)

⁸ Data network for better European organic market information. Available on the internet at: <http://www.organicdatanetwork.net> (last accessed 30.05.2015)

⁹ Fibl & IFOAM, "the World of Organic Agriculture 2013", Frick and Bonn

countries like Switzerland or Denmark that amount reached an average of 240 US dollars per year.

In general, consumers can buy products that cannot be grown, for instance, in Europe; hence they are imported from other countries. This means availability all around the year for a vast category of products. From an ethical point of view, despite some “personal” doubts on the energy costs that the movement of goods require, the import of organic products from developing countries has a strong impact on supporting the economy of those states as well as environmental protection, animal welfare, etc.

Despite the crisis, the organic sector has constantly grown in the last 10 years¹⁰, in particular in the areas of production and market share, total surface and numbers of operators. Data shows that this is explicitly evident, sometimes with a two-digit increment, in countries such as EU, United States of America and China

For all these reasons organic productions are no longer defined as a “niche” sector and consumers are willing to pay a premium price when they are confident in purchasing a distinct, recognisable, organic product.¹¹

In EU, as widely explained in the following chapters, a legal framework had already been implemented in 1991¹² and replaced in 2007¹³ with the existing regulation, to create fair competition among producers and build confidence among consumers.

In 2014 the European Commission, after a process of revision and consultation, was confident on the necessity to adopt an up to date production and control/supervision systems to meet the needs of a “maturing, competitive and international market”.¹⁴

¹⁰ FiBL & IFOAM, “The world of Organic Agriculture 2014”, Frick and Bonn, pp. 193-216.

¹¹ European Commission, “Report on the Results of the Public Consultation on the review of the EU Policy on Organic Agriculture”, 2013, DG Agriculture and Rural Development, Directorate H, Unit H3 Organic Farming.

¹² Reg. (EEC) No 2092/91 “on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs”.

Available on the internet at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1991R2092:20080514:EN:PDF>

¹³ Reg. (EC) No 834/07 “on organic production and labelling of organic products”.

Available on the internet at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:189:0001:0023:EN:PDF>

¹⁴ EU Rural Review n. 18, “*Organic Farming*”, Spring 2014, European Network for Rural Development, pp. 3-5.

During the public consultation that the Commission performed in 2012-2013 as part of the legislative revision process, an overwhelming majority of the respondents agreed on strengthening the rules and controls in the organic sector, while other stakeholders such as IFOAM through their EU group, identified the necessity to increase the effectiveness of controls of European and third country operators as a crucial improvement of the legislation.¹⁵

The same consultation showed that consumer expectations are very high, not just for the intrinsic characteristic of the organic production itself in terms of health and safety, but also for the commonly recognised role in preserving the environment.

1.2 Problem definition

The aim of the Commission is to guarantee the organic food chain from “farm to fork” but, at a European level not all organic productions are harmonised under a common legal framework. An example can be seen in mass catering, textiles, cosmetics and pet food.

The interest of consumers in organic products is constantly increasing due to an effective change in the consumption towards healthy and environmental friendly food, despite having only a partial knowledge of the European regulations and despite the wide use of “greenwash” marketing terminology.

Frequent reports of food frauds linked to the organic sector can deteriorate the consumer trustworthiness and bring their attention and perplexity towards the application and enforcement of the regulations.

Principles seem to be partially implemented and monitored in the organic sector, especially regarding environmental indicators such as the use of energy, water, etc.

Voids in the European Regulation in regard to non-harmonized sectors of the organic production umbrella, are explicitly delegated to National Authorities (for example, in regard to the organic catering legal framework, limits of

¹⁵ IFOAM EU Group, “*Dossier on the review of the Legal and Political Framework for Organic Farming*”, 2013. Available on the internet at: http://www.ifoam-eu.org/sites/default/files/page/files/ifoameu_reg_organic_reg_position_201305.pdf (last accessed 30.05.2015)

substances in oenological productions as well as definition and enforcement of non-conformities). The freedom that each Member State has in the interpretation of the legislation, leads to unfair competition and can potentially undermine the confidence of consumers.

Public authorities

The principles¹⁶ embedded in organic production rules, according to the wishes of the European legislator, envisage responding to consumer demand, protection of the environment and animal welfare as well as rural development. *The problem is that it is not clear if these principles and relative production rules are fully translated into measurable parameters such as the use of resources (water, energy, etc.) and, eventually, be objective of controls to assess their correct functioning.*

Furthermore, at national level and due to tangible socio-climatic differences, some production rules, standards and control systems are “customised” to meet the necessities of different producers in different Member States. Control bodies or control authorities have to verify the correct application of the legislation and, eventually deal with fraudulent/incorrect behaviours of producers.

The problem is that a definition of infringement and/or irregularity is unclear and a definition has been delegated to the third party certifiers. This can lead to an unbalanced relationship between the control body/authority and producers and among producers of different Member States.

Consumers

The willingness to pay an extra price to purchase an organic product that, as foodstuff in general, has credence characteristic, is proportional to the confidence in the principles and in the control system behind the technical legislation.

¹⁶ Whereas 1 Council Reg. (EC) No 834/07.

The use of the word “bio, organic, ecologic, etc.” in non harmonized sectors such as textiles, catering, cosmetics and pet food could confuse or even mislead the consumer’s expectations.

The problem is that, despite the growth of the sector in the past few years, it is not clearly known if consumers are aware of the organic regulation and its principles, the differences that organic products can hide, or their confidence in the system. It’s also not clear if there are differences in consumer’s knowledge and confidence among Member States.

A further maturation of the sector, easier access to information and wider consumer share may dent the confidence and perception and finally, seriously decrease the willingness to pay.

Producers

The introduction of regulations for specific production such as wine, aquaculture, yeast, etc. (sensitive to particular socio-climatic conditions and so, slightly different in each Member State) should contribute to reinforce an harmonised perception over the organic products but should also create a stronger and clearer level playing field in which the producers are advantaged by harmonised regulation and consumers can purchase a product that embed comparable characteristics.

The problem is that, based on the possibility of the singular Member State to adapt standards, is not clear if similar products, such as organic wines, have been produced in a slightly different way and can still be considered the same.

Differences in production and/or content could disrupt fair competition among producers.

1.3 Research objective

The objective of this research is to understand how organic principles are translated into European legislation, to compare implementation of the regulations and compulsory controls and investigate consumer awareness in order to assess whether a level playing field exists in the organic sector. This

paper will evaluate if a potential different interpretation of the Regulations (ex. Infringement and Irregularities, oenological standards) among Member States can be still considered “harmonisation” to the common legislation and its objectives. This paper will also investigate if the legislative gap in regard to other organic productions (e.g. Catering) can still create a fair market, protection and trustworthiness towards consumers. To further this study two Member State have been chosen as part of a case study. (Italy and the Netherlands)

1.4 Research questions

Are principles and control systems fully implemented in all sectors of organic production at European and national level? Is this enough to guarantee fair competition, consumer’s trust and right to make an informed choice based and enhanced by knowledge and correct perception?

In order to widely answer to the research question, the following sub-questions have to be answered. For clarity, the sub-questions will be divided in 3 parts.

The legal framework

1. What are the organic principles embedded in the European organic legal framework?
2. Are those principles translated into measurable standards or procedures and are they verified via official controls?
3. Are there differences in the implementation of the regulations, specifically in the catering sector, between Italy and the Netherlands?

Stakeholder analysis

4. Are the measures for infringement and irregularities similar and clearly stated in the “*contract*” that every producer has to subscribe with the control body/authority?

5. To what extent do the national control bodies/authorities consider infringement or irregularity and at what stage does fraudulent behaviour take place?
6. What are the differences in consequences attached to fraudulent behaviour in the two countries?
7. Are consumers in Italy and in the Netherlands aware of how legislation affects organic productions, and are they confident on how it is applied?
8. Upon applying the concept of flexibility can an organic wine, which is produced under the same regulation in different Member States, still be considered the same product, and if so, does it affect the fairness of the playing field?

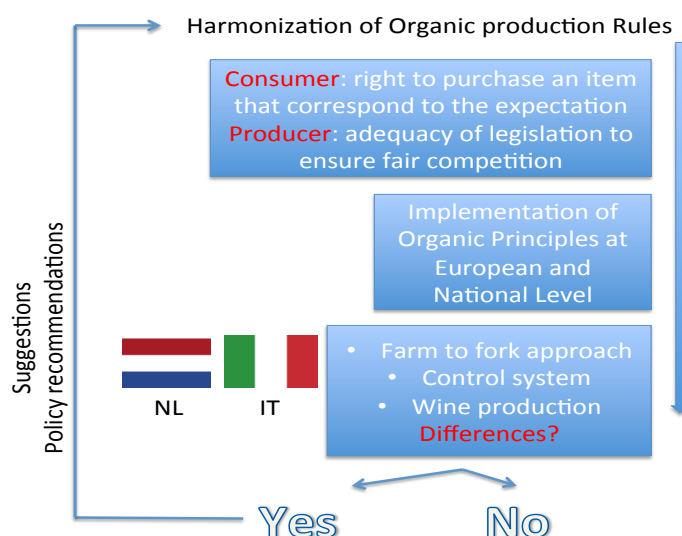
Policy recommendations

9. What kind of policy changes can be advised at national or EU level in order to insure an even more balanced relationship and fairness among stakeholders?

1.5 Methodology

In order to carry out this paper and answer to the research question and relative sub-questions, a desk research and an empirical research were performed. The general scheme of the research design is presented in Figure 1. Harmonised regulations will be analysed in terms of level of implementation of principles, consumer expectations and knowledge and in terms of market fairness. The farm to fork approach and aspects of the control system will be analysed. For many of the aspects presented above, a comparison between data sets collected in Italy and in the Netherlands will be carried out.

Figure 1: Research design.



Desk Research

The desk research will provide a detailed overview on the specific European and national legal framework in order to answer sub-questions 1, 2, 3 and 8. Desk research will be also applied on searching insights in order to partially answer sub-questions 4, 5 and 6.

Empirical research

In order to fully answer sub-questions 4, 5 and 6, semi-structured expert interviews, with the advantage of direct contact with the interviewee, will be carried out with control bodies/authorities in Italy and in the Netherlands.

A questionnaire was designed in order to answer sub-question 7 and it was presented to consumers in three major cities in Italy and in the Netherlands.

The questionnaire is structured in 7 questions. The Italian version can be found in Annex II while the English version used in the Netherlands can be found in Annex I. It has been presented to consumers during their purchases, in front of popular retailers (not hard discount such as LIDL) in cities with over 100.000 habitants. In Italy the survey was also performed in two cities located in different

regions to try have better understanding on possible different patterns related to socio/cultural differences. The operator who performed the survey introduced him/herself as a university student conducting a consumer survey regarding organic productions. The questionnaire was handed out over a portable hard board together with a pen. The questionnaire contained the necessary instructions for the completion of the answers. Operators have been instructed on answering just questions related to technicalities of the questionnaire. In regard to the first question related to the frequency of the purchases of organic products respondents ask how to interpret that question. Operators have been instructed to suggest respondent on thinking about the proportion on which they purchase organic products compared with conventional products. Data sets have been processed in an excel sheet to extract tables and graphics and through SPSS¹⁷ to determine P-value (significance level 0.05) and statistical difference. The overall results of the desk and empirical researches were functional on answering to sub-question 9.

1.6 Research framework

This sub-section is meant to offer a brief description of the structure and the content of the study.

After a brief introduction on the growing trends of organic productions in Europe and in the rest of the world, CHAPTER 1 presented the problem definition in regard to public authorities, consumers and producers. Research objective, research question and relative sub-questions were presented further. The methodology paragraph will analyse the desk and the empirical research while the present paragraph offers a deeper insight on the structure of the paper. CHAPTER 2 includes the complete description of the European organic legal framework with main highlights on the current regulation including subsidies, the Commission's reviewing process and a description of the proposal for a new regulation. Further insights are also briefly described focusing on controls and on the role of the Food and Veterinary Office.

¹⁷ SPSS: Statistical Package for Social Science. Available on the internet at: <http://www-01.ibm.com/software/analytics/spss/> (last accessed 30.05.2015)

CHAPTER 3 will describe results from the desk and the empirical research. Firstly, the desk research will show the level of implementation of the principles in the European Regulation on a farm to fork approach in comparison with the internationally recognised principles. Secondly will be presented an overview of the findings in the mass catering sector, with details related to producer declaration, irregularities, infringements and fraudulent behaviour. Thirdly, in relation to the fairness of the market, insight on the wine sector will be presented. The empirical research will include a description of the semi-structured expert interviews carried out in Italy and in the Netherlands for control bodies/authorities. This part will also include an exhaustive presentation of the results obtained from the statistical elaboration of the consumer surveys performed in Florence and Vicenza (Italy) and in Ede (the Netherlands).

The conclusions contained in CHAPTER 4 will be presented in order to answer to the specific sub-question and, in general, to the overall research question.

From the main conclusions highlighted in the previous part, CHAPTER 5 will present possible legal recommendations to better develop organic production regulations in terms of overall implementation of the principles, market fairness and consumer's trustworthiness and awareness.

CHAPTER 6 contains references and main web sites utilised in this paper while CHAPTER 7 will contain annexes.

Synopsis: *this chapter presented a brief but exhaustive introduction on the growing of the organic sector from consumers/producers point of view and main productions in Europe in the last decade. Subsequently, problems related to the present harmonized regulations were defined from public authorities, producers and consumers point of view. A research objective was also outlined while research questions and sub-questions were grouped in respect to the legal framework, the stakeholder's analysis and on policy recommendations. Finally a schematic resume of the methodology of the research was draw together with a brief description of the paper.*

2. European organic legal framework

Preamble: *Chapter 2 presents a short historical introduction of the organic regulations in Europe. Paragraph 1 deals with the current Regulation and the major aspects related to the matter of this paper. Paragraph 2, 3 and 4 give short explanation on the subsidies related to organic productions, the reviewing process, and new Regulation proposal. The last two paragraphs introduce the national control system and the role of the Food and Veterinary Office at an European level.*

The first organic farming scheme in Europe was successfully implemented in Danish legislation since 1987. The aim behind the implementation of harmonized regulations and standards, driven by an increasing demand, was to ensure integrity of the organic production itself, as well as fostering competitiveness. Other important objectives, seen as crucial elements, are protecting the interest of the consumer and to keep building confidence.

As a result of the 1992 reform of the Common Agricultural Policy (CAP)¹⁸, Regulation (EEC) No 2092/91 represented the first European legal definition for organics through production rules, control and labelling requirements, as well as rules for importing organic products.

The legislation was revised with the adoption of Council Regulation (EC) No 834/2007 in June 2007.

According to the European Commission, major highlights of the Regulation are:

- More defined objective and principles;
- Harmonization of the standard, abolishing national standards for animal production;
- Possibility of exceptions but with limitations and for a limited time;
- Control system under Reg. (EC) 882/2004 and mandatory accreditation for private control bodies;
- Recognition of third countries under equivalence as well as non EU control bodies.

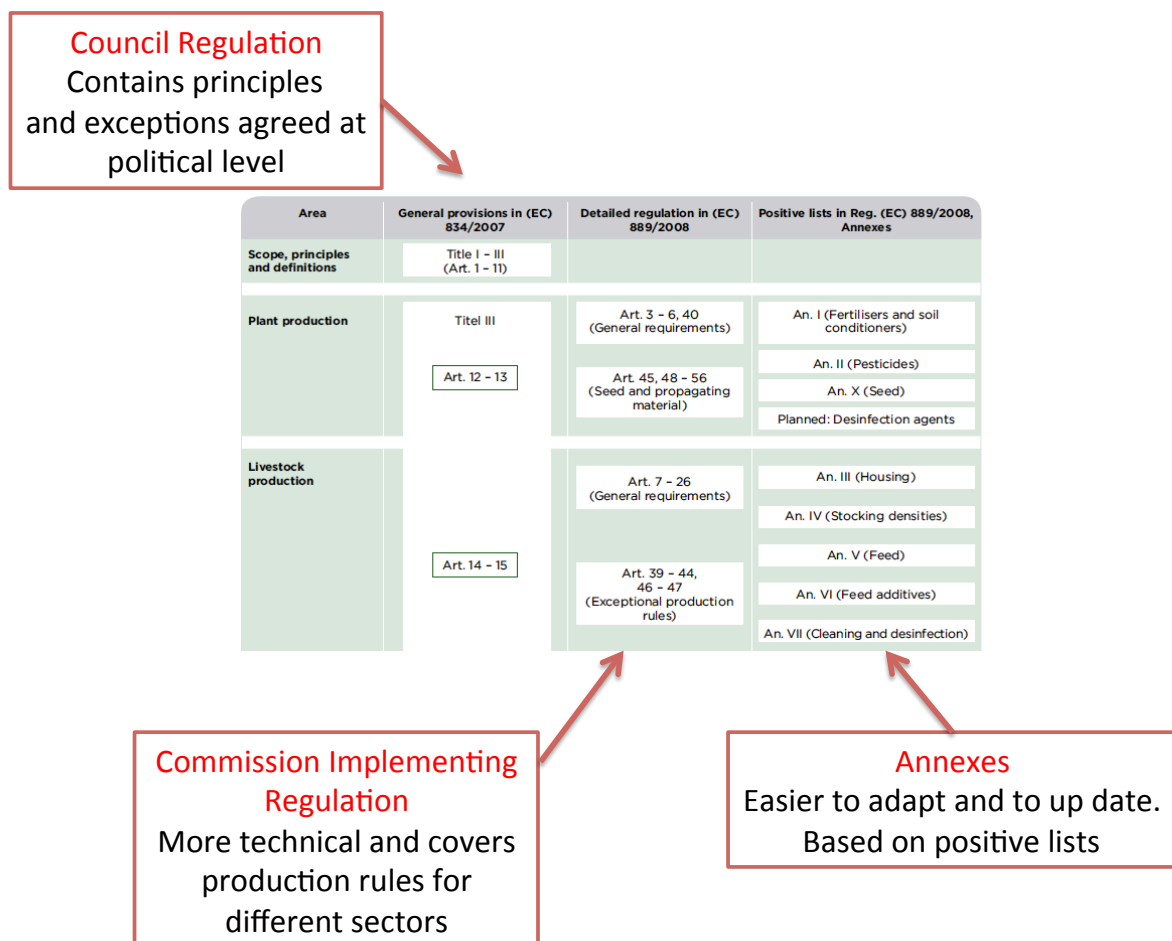
¹⁸ CAP is a political commonly agreed document that, with the implementation of the contained programs, addresses the agricultural future production in Europe. It originates after food shortage during the 50s and 60s. The present plan started in 2014 and will finish in 2020.

A deeper overview on the Regulation structure is shown in the next paragraphs. In the view of this paper the punctual description of the different aspects of the legislation is functional, for the reader, to better understand the approach and the reasoning taken by the European legislator.

2.1 The current Regulations

The next paragraphs are an overview of the main Regulation concerning organic agriculture in place in the European Union. An example on how the regulations are structured is presented in Fig. 2. For each regulation the main structure and concepts are highlighted and briefly explained. For the purpose of this paper it is important to present the structure of the regulation in detail to better understand its application and to show the influence of the legislator and the stakeholders on the construction of the legal framework itself.

Figure 2. Example of how the regulations are structured.



1. Council Regulation (EC) No 834/2007 “on organic production and labeling of organic products and repealing Regulation (EEC) No 2092/91”.

Title I contains aims, scope and definitions and expresses the context in which the Regulation applies. According to Art. 1.1(a) all stages of production, preparation and distribution are covered by the law. The approach “from farm to fork” is further clarified in Art. 2(b), where the definition of “stage of production” includes primary production up to storage, processing, transport, sale or supply. Live unprocessed agricultural products, food, feed and vegetative material used for propagation as well as seeds can be covered by the Regulation. The definitions of “food”, “feed” and “placing on the market” can be found in Reg. (EC) No 178/02 (GFL).

Title II expresses Objectives and Principles. According with Art. 3 organic production shall establish a sustainable management system (respect natural cycles, limit use of energy and resources, animal welfare) aiming for high quality food that responds to consumer demand. Those objectives could be reached implementing the principles mentioned in Art. 4 such as use of natural resources, restriction on use of external input and strict limitation of use of chemical substances.

Title III contains general and specific production rules for farm production, processed food and feed and, in Art. 22, exceptional production rules generally included in the concept of flexibility. As mentioned in whereas 21 and 22 the flexibility concept is necessary to adapt the regulation to local climatic, environmental and social conditions but also strictly limited to maintain consumer confidence.

Title IV gives indication on the use of logo and the mandatory label addressing the use of the term organic too.

Title V is dedicated to controls. Art. 27 indicates that beside the rules contained in the organic regulation, Member States shall set up a system of controls in conformity with Reg. (EC) No 882/04 of the European Parliament and of the Council “on official controls performed to ensure the verification of compliance

with feed and food law, animal health and animal welfare rules".¹⁹ Title V contains also the definition of the responsibilities (competent authority, control authority and control body). Art. 28 specifies the procedure to adhere to the control system and Art. 30 indicates the measures in case of infringements or irregularities.

Title VI deals with trade with third countries and **Title VII** contains final and transitional rules.

1.a Commission Regulation (EC) No 889/08 "laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control".

Title I contains the introductory provisions, mostly represented by definitions (Art. 2) of key words present in the regulation itself.

Title II "Rules on production, processing, packaging, transport and storage of organic products".

Chapter I is specific on plant production and contains details on the possible use of organic fertilizers, management of the organic manure used as fertilizer (Art. 3(2) and 3(3)) and management of pests and weeds (Art. 5).

Chapter II on livestock production contains the indication on the choice of the breed (Art. 8), reproduction unit, housing condition (Art. 10) and beekeeping (Art. 13). Nutritional requirement of feed (Art. 19) as well as disease prevention and veterinary treatments are discussed in Section 4.

Chapter III on processed food and feed gives indication on the use of Good Manufacturing Practices (GMPs), precautionary measures in case of contamination by unauthorized substances or products (Art. 26(4)(a)) and compulsory traceability (Art. 26(5)(d)). Art. 29 gives the possibility to singular Member State to authorize non-organic food ingredients not included in Annex IX for a limited period of time.

¹⁹ Available on the internet at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004R0882:20060525:EN:PDF> (last accessed 30.05.2015)

Chapter IV on collection, packaging, transport and storage of products gives indications on the possibility for a simultaneous collection of organic and non-organic products suggesting that the operators keep records relating to the operations (Art. 30).

Chapter V contains conversion rules for crop, livestock and beekeeping production.

Chapter VI on exceptional production rules. The rules are related to Art. 22 Reg. (EC) 834/07 on flexibility and give the possibility to the competent authority to authorise exception in the case of a particular climatic or social condition as well as in case of non-availability of inputs. According to the regulation, the authorizations are granted *ad personam* where, out of ordinary conditions impose less strict production rules.

Title III specific on labelling of organic production, lays down condition for the use of the code number and place of origin for food (Art. 58) and for feed (Chapter II).

Title IV on Controls.

Chapter I delineates the minimum control requirements and the responsibilities of the operators (Art. 63). The subjects of the controls must create and sign a declaration that contains the acceptance on enforcement measures in case of INFRINGEMENT or IRREGULARITIES. The declaration must be verified and eventually corrected by a control body or a control authority. Art. 65(1) contains specific details on the yearly physical inspection with the possibility to take samples when the use of non-authorized substances is suspected. Furthermore chapter I gives instructions on the documentary accounts (Art. 66) such as the records on the use of fertilizers and plant protection products (Art. 72).

Chapter III specifies control requirements for livestock and livestock products produced by animal husbandry with indication on how to identify the animals (Art. 75) and how to keep records (Art. 76).

Chapter V assigns control requirement to any operator involved as importer or consignee.

Chapter VIII on infringements and exchange of information. Art. 91(1) is the core of this part of the regulation and cites that: "*Where an operator considers*

or suspects that a product which he has produced, prepared, imported or that he has received from another operator, is not in compliance with organic production rules, he shall initiate procedures either to withdraw..." Also a control body or control authority that suspects irregularities can require an operator to do not place on the market a certain product. Art. 91(3) leaves Member States freedom on measures or fines to take in case of infringement of Title IV of Reg. (EC) No 834/07 and Title III and Annex XI of Reg. (EC) No 889/08 on labelling and logo.

Title V on transmission of information to the Commission, transitional and final provisions. Regulation makes mandatory by Member States an annual communication to the Commission on statistical data for organic production.

The positive lists present in the Annexes provide, among others, indication on fertilizers, plant protection products, housing characteristic, food and feed materials and product and substances to use in processed organic food.

In general when a control body or control authority find a non-compliance by an operator, beside proceed with agreed actions, control authorities or bodies are required to share information without delay on non-compliance, both affecting EU organic products and imports. Such information is exchanged via the Organic Farming Information System, the IT tool operated by the European Commission.²⁰

Amendments: During the years after the enter into force of the original regulation, SCOF and in general for the willing of the Commission to better adapt the legal framework to the need of market and stakeholders, adopt several amendments to cover lacks of the original proposal as well as harmonise sector not previously included.

- Commission Regulation (EC) No 1254/08 on **organic yeast** amending Reg. (EC) No 889/08

- Commission Regulation (EC) No 710/09 on **animal and**

²⁰ OFIS (Organic Farming Information System) is available on the internet at: http://ec.europa.eu/agriculture/ofis_public/index.cfm?lang=en (last accessed 30.05.2015)

seaweed production amending Regulation (EC) No 889/08

- Commission Regulation (EC) No 271/2010 on the **organic logo** amending Regulation (EC) No 889/08.
- Commission Implementing Regulation (EU) No 126/12 **on documentary evidence** amending Regulation (EC) No 889/08 and on import from USA amending Regulation (EC) No 1235/08
- Commission Implementing Regulation (EU) No 203/12 on **organic wine** amending Regulation (EC) 889/08
- Commission Implementing Regulation (EU) No 505/12 on organic production, labelling and controls of organic **feed**, amending and correcting Regulation (EC) 889/08
- Commission Implementing Regulation (EU) No 392/2013 as regard the control system for organic production
- Commission Implementing Regulation (EU) No 354/14 on **fertilizers, active substances and additives**, amending and correcting Regulation (EC) 889/08
- Commission Implementing Regulation (EU) No 836/14 on **animal nutrition**, amending Regulation (EC) No 889/08

1.b Commission Regulation (EC) No 1235/08 “laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries”.

As stated in the previous paragraphs, the European organic market is in continuous growth driven by consumer demand for a wide range of products. Extra-EU organic products need to be at the same level of quality and credibility as the European ones. In general the existing regulations give consumers the confidence that when they buy organic products, equivalent rules are applied at every stage of the production, wherever the products may come from.²¹

Commission Regulation (EC) No 1235/08 explains in detail the provisions expressed in Art. 32 and 33 of the Council Regulation (EC) No 834/07 “*on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91*”. Art. 32 clarifies how to place on the market an imported **compliant** product and Art. 33 show how to place on the market an imported product providing **equivalent** guarantees.

Compliance: countries whose system of organic production complies with the principles and production rules set out in the EU organic regulations and whose control measures are of equivalent effectiveness to those laid down in EU organic regulations. Today some product categories from 11 countries are deemed to meet these conditions: Argentina, Australia, Canada, Costa Rica, India, Israel, Japan, Switzerland, Tunisia, the United States and New Zealand. For each country, the regulation specifies which product categories, origin and production standards are accepted, as well as the competent authority and recognised control bodies in that country.

Equivalency: for countries where there is not an equivalent organic regulation, a list of Control Bodies and Control Authorities competent to carry out controls and issue certificates for the purpose of equivalence is defined in Annex IV of Commission Regulation (EC) No 1235/2008. This system came into force on 1 July 2012 and facilitates the import of organic products from these countries.

Title I of Reg. (EC) No 1235/08 gives subject matter and general definitions while Articles contained in **Title II** are specific for the import of compliant

²¹ European Commission, Agriculture and Rural Development, 2014. Available on the internet at: http://ec.europa.eu/agriculture/organic/organic-farming/what-is-organic-farming/international-trade-in-organics/index_en.htm (last accessed 30.05.2015)

products. **Title III** provides guidance for the import of product with equivalent guarantees, procedure for requesting inclusion in the list of third countries as well as detailed indications for compilation and content of the list of recognized control bodies and control authorities for the purpose of equivalence. Title III contains specifications for special custom procedures and for products that don't comply with the Regulation. **Annexes** contain List of control bodies and control authorities for the purpose of compliance and equivalence, list of third countries and other technical and bureaucratic forms related to import from non-EU countries.

According to Neuendorff and Huber²² the new import system seems to be more efficient and more market oriented. However the inspection and certification procedure carried out by certification bodies of authorities in third countries doesn't seem to adequately deal with the different risks that the organic managements face outside Europe. An example could be the tendency among traders and organizations to select certification bodies on their willingness to reduce the conversion period as well as the possibility to find an up to date list of certified operators or list of operators that has been suspended.

Amendments:

- Commission Implementing Regulation (EU) No 126/12 on documentary evidence amending Regulation (EC) No 889/08 and on **import from USA**, amending Regulation (EC) No 1235/08
- Commission Implementing Regulation (EU) No 508/12 **on third countries competent authorities, control bodies and categories of product**, amending Regulation (EC) No 1235/08

²² Neuendorff J. and B. Huber, "The new import regulation; more reliability for imported organic products?", 2009, The new EU Regulation for organic Food and Farming. IFOAM EU Group. Available on the internet at: http://www.ifoam-eu.org/sites/default/files/page/files/ifoameu_reg_organic_regulation_dossier_2009_en.pdf (last accessed 30.05.2015)

- Commission Implementing Regulation (EU) No 751/12 on modifying Annex list of control bodies and authorities competent for third country inspections, correcting Regulation (EC) No 1235/08
- Commission Implementing Regulation (EU) No 125/13 on third countries competent authorities, control bodies and categories of product, amending Regulation (EC) No 1235/08
- Commission Implementing Regulation (EU) No 586/13 on third countries competent authorities, control bodies and categories of product and date of submission of annual report, amending Regulation (EC) No 1235/08
- Commission Implementing Regulation (EU) No 355/14 on third countries competent authorities, control bodies and categories of product, amending Regulation (EC) No 1235/08

2.b Export.

Exporting organic products from EU to third countries requires that exporters comply with the countries import regimes except where reciprocal equivalence arrangements are in force. The European Union has signed such a kind of agreement with Canada in 2011²³ and USA in 2012²⁴. When no trade rules are agreed the export procedure is more complex. Trade to China, for example, requires that a Chinese approved certification body carry out the

²³ EU-Canada Organic Equivalence Arrangement. Available on the internet at: <http://www.inspection.gc.ca/food/organic-products/equivalence-arrangements/european-union-overview/eng/1328074578961/1328074648480> (last accessed 30.05.2015)

²⁴ EU-USA Organic Equivalence Arrangement. Available on the internet at: http://europa.eu/rapid/press-release_IP-12-138_en.htm (last accessed 30.05.2015)

inspection to ensure compliance with Chinese standards before to issue the export certificate.²⁵

2.2 CAP and other subsidies

“We must encourage production without compromising the value of the sector. Demand is high because the standard are high”. Dacian Cioloș, European Commissioner for Agriculture and Rural Development.²⁶

Organic farming is supported through the Pillar II of the Common Agricultural Policy (CAP). Every Member State, under the umbrella of rural development, can implement a co-financed multiannual program following the indications contained in Council Regulation (EC) No 1698/05.

CAP is in line with the “Europe 2020”²⁷ strategy, a long term program enacted by the Commission that focuses on certain headline targets such as 75% of the population aged from 20 to 64 employed, 3% of GDP invested in Research & Development, specific emission reduction targets as well as more education and reduction of poverty.

Not all EU support²⁸ in long term rural development programs goes to organic farming but under the measure 214 “Agri-environment payments”, farmers are encouraged to adopt methods of production considered environmental friendly. Other measures are 132 “Participation of Farmers in food quality schemes” and 313 “Encouragement of tourism activities”.

The financial support is yearly calculated on the basis of monitoring information from each Member State and provided through the European Agricultural Fund for Rural Development (EAFRD). For the period 2014-2020 EAFRD introduced specific measures for organic agriculture widening the offer of support for both environmentally friendly practices and high animal welfare.²⁹

²⁵ Scorzon A., B. van der Meulen L. Jiao, “Organics in Chinese Food Law”, 2014 European Food and Feed Law Review/Lexxion

²⁶ Speech at the Advisory Group on Organic Farming, Brussel April 2008.

²⁷ European Commission, “A strategy for smart, sustainable and inclusive growth”, Brussel 2010. COM (2010)2020. Available on the internet at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:2020:FIN:EN:PDF> (last accessed 30.05.2015)

²⁸ Almost 100 billion euros for the period 2007-2013.

²⁹ Regulation (EU) No 1305/2013 of the European Parliament and of the Council “on support for

In general the degree and type of support for organic farming is differently implemented among Member States.

In the contest of national or even regional support measures not co-financed by the EU, a wide range of policy measure were introduced.

An interesting study conducted in 2013 by the Von Thünen Institut³⁰ enlightens the relation between the support measures and the development of the sector, especially payments that cover the conversion costs seem to be the more boosting. But direct subsidies are not enough according to the study. A consistent effect is due by the integration of supportive measures with a policy package especially if is market oriented and long term.

The document concludes that an important step forward at EU level could be the creation of a common organic sector development principle agreed by Member States too as well as creating synergies and promote innovation and knowledge exchange.

2.3 Regulation Reviewing Process

Council Regulation (EC) No 834/07 gave mandate to the Commission to submit, at the end of 2011, a report containing a review of the experience gained since the entry into force of the Regulation.³¹ A general scheme of the reviewing process and relative subjects involved is presented in Fig. 3. Main organ of the Commission involved on the revision of the organic legal framework is the Inter-Service Steering Group (hereinafter ISSG).³² The ISSG staff gathers together elements from different DGs, Eurostat, Commission's Legal Service and Secretariat General. The group is chaired by DG Agriculture and Rural

rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005". Available on the internet at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:347:0487:0548:en:PDF> (last accessed 30.05.2015)

³⁰ Institute of Farm Economics "Johann Heinrich von Thünen Institut (vTI)", Federal Research Institute for Rural Areas, Forestry and Fisheries. "Use and efficiency of public support measures addressing organic farming", 2013, executive summary from page I to page XVI.

³¹ Art.41(1)(2), Reg. 834/07.

³² Further information available in the internet at: http://ec.europa.eu/agriculture/organic/eu-policy/policy-development/inter-service-steering-group/index_en.htm (last accessed 30.05.2015).

Development and take legal basis according with the 2009 Commission Assessment Guidelines.³³ During 2012, after receiving the Commission's report the ISSG started a series of hearings of experts to assess the situation. Main topics covered during these hearings were internal market and standards, controls and enforcement and international trade.

The Advisory Group in Organic Farming (hereinafter AGOF) is a decision-making support group formed by IFOAM³⁴, BEUC³⁵, COPA/COCEGA³⁶, COFALEC³⁷ and others.

The decisional documents produced by the group are not binding for the Commission but they are taken into account.

From a parallel position, IFOAM has a specific European Policy oriented group called IFOAM EU. In 2013 the group concentrated the effort on the CAP³⁸ reform 2014-2020 and consequently on the new organic regulation and the European Organic Action Plan.³⁹ A proposal by the IFOAM EU Group was communicated to the Commission highlighting major issues like increasing the effectiveness of the control system, moving to an 100% ingredient approach for processed organic food, reducing exceptions rules towards more transparency and enabling group certification for small scale farmers.⁴⁰

³³ European Commission, "Impact Assessment Guidelines", 2009 SEC(2009)92.

Available on the internet at:

http://ec.europa.eu/smartregulation/impact/commission_guidelines/docs/iag_2009_en.pdf (last accessed 30.05.2015).

³⁴ International Federation Organic Agriculture Movement. Available on the internet at:

<http://www.ifoam.org> (last accessed 30.05.2015).

³⁵ The European Consumer Organisation. Available on the internet at: <http://www.beuc.org> (last accessed 30.05.2015).

³⁶ European farmers and European agri-cooperatives associations. Available on the internet at:

<http://www.copa-cogeca.be/Menu.aspx> (last accessed 30.05.2015).

³⁷ European yeast industry. Available on the internet at:

<http://www.cofalec.com/default.aspx?lid=1> (last accessed 30.05.2015).

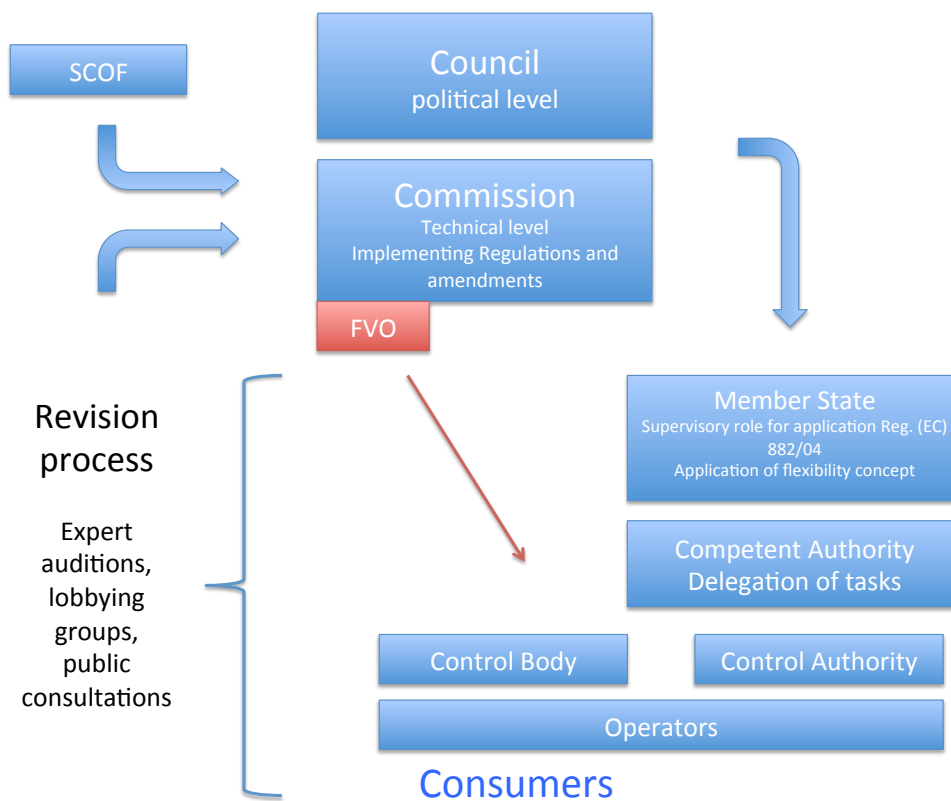
³⁸ Common Agricultural Policy. An Overview of the CAP reform 2014-2020 is available on the internet at: http://ec.europa.eu/agriculture/policy-perspectives/policy-briefs/05_en.pdf (last accessed 30.05.2015).

³⁹ European Commission, COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS, "Action Plan for the future of Organic Production in the European Union", COM(2014) 179 final. Available on the internet at:

http://ec.europa.eu/agriculture/organic/documents/eu-policy/european-action-plan/act_en.pdf (last accessed 30.05.2015).

⁴⁰ FiBL & IFOAM, "The world of Organic Agriculture 2014", Frick and Bonn.

Figure 3. Subjects involved in the application, controls and revision of organic regulations



In its program “Regulatory Fitness and Performance”⁴¹ the Commission aimed to review and improve the organic legislation, removing obstacles from the sustainable development of organic production, guaranteeing fair competition for farmers and operators and more functioning market and, most of all, maintaining and improving consumer confidence in organic products

The process led, during 2012 and 2013 to a Public consultation by means of an on-line questionnaire directed towards common citizens as well as operators of the organic sector, public and private authorities, associations of consumers, etc. At the end of September 2013 the Commission made public the results of the public consultation.⁴²

⁴¹ Commission Communication on EU Regulatory Fitness of 12 December 2012-COM(2012)746.

⁴² European Commission, DG Agriculture and Rural Development, Directorate H, Unit H3 Organic Farming, “Report on the Results of the Public Consultation on the review of the EU Policy on Organic Agriculture”, 2013. Available on the internet at:

From the almost 45.000 replies, it emerged that citizens chose to buy organic for their concerns about preserving the environment as well as purchasing healthy food in terms of absence of GMOs, chemical residues, etc.

74% of the stakeholders would strengthen the European Organic Standards and introduce sanctions for non-conformity.

An overwhelming majority wish to have a more implemented uniformity among Member States with no exceptions.

66% of the respondents found that the organic logo is well recognisable, even if a great majority purchase organic products directly from the producer, so basically non-labelled and non pre-packed.

Roughly half of the replies enlighten that citizens are not aware of the mandatory control system that include a yearly inspection.

But what respondents are most wishing for is a simple and clear way to have information. Accessible European database, traceability and dedicated official websites are the most frequent request.

The Commission report on the application of the Regulation (EC) No 834/07 in 2012 together with the results of the public consultation in 2013 brought the Council to strongly support a legislative review aiming at long term stability for the organic sector⁴³

2.4 Commission's proposal for a new organic regulation

Organic production represents an important part of the European Union agricultural products quality schemes together with Protected Denominations of Origin (PDO), Protected Geographical Indications, Traditional Specialities Guaranteed (TSG) and the recently introduced Optional Quality Terms (OQT) such as "Mountain Product" and "Product of Island Farming".⁴⁴

http://ec.europa.eu/agriculture/organic/documents/eu-policy/of-public-consultation-final-report_en.pdf (last accessed 30.05.2015).

⁴³ 8906/13, LIMITE, AGRILEG 56.

⁴⁴ Regulation (EU) No 1151/12 of the European Parliament and of the Council "*on quality schemes for agricultural products and foodstuffs*".

Available on the internet at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:343:0001:0029:en:PDF> (last accessed 30.05.2015).

The Commission, in its explanatory memorandum of March 2014⁴⁵ attached to the new organic regulation proposal is confident on improving consumer confidence. Eliminating any exception, improving control system and stimulating the development of organic inputs are considered the main targets.

A risk based approach is strongly believed to be an important step to further on widening the efficiency and effectiveness of controls, and together with a reliable import regime, these are viewed as necessary to prevent frauds.

2.4a Legal Elements

- Specific production rules brought together in Annexes to make them more readable (Annex I and II) as well as rules on collection, packaging, transport and storage brought together in Annex III;
- Organic agricultural holdings have to be entirely managed under organic regulations (Art. 7(a));
- The agricultural ingredients used in composition of organic processed products have to be exclusively organic (Art. 6(a));
- Abolition of exemptions for retailers that lead to different interpretation for each Member State;
- Risk based approach;
- Transparency on control fees;
- Group certification (Art. 24 (1));
- Unique control authority/body all along the organic chain for each category of products;
- Harmonised actions for non-compliance and possible refund of the monetary loss by the producer if the non compliance due to a contamination is not intentional (Art. 20);

⁴⁵ European Commission, “*Explanatory Memorandum*”, COM(2014)180 final, Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL “*on organic production and labelling of organic products, amending Regulation (EU) No XXX/XXX of the European Parliament and of the Council [Official controls Regulation] and repealing Council Regulation (EC) No 834/2007*”. Available on the internet at: http://ec.europa.eu/agriculture/organic/documents/eu-policy/policy-development/report-and-annexes/proposal_en.pdf (last accessed 30.05.2015).

- Improved trade regimes to increase consumer confidence;
- Clarification on the use of terms referring to organic production (Art. 21);
- Authorisation of products and substances used in organic productions (Art. 19).

2.5. Controls

Member States have room to implement their own controls based on the general provisions of Reg. (EC) No 882/04 as well as the specific control provisions indicated in Reg. (EC) No 834/07 and its implementing rules expressed in Reg. (EC) No 889/08.

Every Member State indicates an Authority responsible for controls that, in certain cases, may delegate operational tasks to public or private control bodies. The majority of the Member States delegate the control tasks to private bodies (19 MS). Five Member States implemented a mixed control system while in four Member State (the Netherlands among 3 more Nordic countries) controls are managed directly by Public Authority.⁴⁶

Let's have an overview on the legal framework that coordinates the control system.

Regulation (EC) No 882/04 of the European Parliament and of the Council "*on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules*"

Title I contains general rules and definitions for the performance of official controls. As specified in Art. 1 the controls must verify the compliance with Community rules aiming at preventing, eliminating or reducing risk to humans and animals as well as guaranteeing fair practices in feed and food trade and protecting consumer interests (labelling and in general consumer information).

⁴⁶ European Commission. Available on the internet at: http://ec.europa.eu/agriculture/organic/consumer-trust/certification-and-confidence/controls-and-inspections/control-system/index_en.htm (last accessed 30.05.2015)

Title II and specific by Art. 3, deals with official controls by Member States. The responsibility of the Member State is to ensure that controls are carried out on a risk basis, with appropriate frequency and without prior warning except for audits where prior notification is necessary. Controls must be performed at any stage of production and applied within the Community, to exported goods and to products introduced from a third country. Art. 4 allows Member State to designate a competent authority and operational criteria from a technical point of view and from a managerial as well. Art. 10 contains specific provisions on control activities, methods and techniques while chapter III is fully dedicated to sampling and analysis and chapter V deals with imports from a third country.

Title III discipline responsibilities for Community (Art. 32) and national (Art. 33) laboratories.

Title IV contains provisions on administrative assistance and cooperation in the areas of feed and food among Member States in case that the outcome of official controls requires action in more than one Member State.

Title V delineates the obligation by Member States to prepare a multi-annual control plan specifically on the application of Art. 17(2) GFL following the principles expressed in Art. 42 of the present Regulation.

Title VI on Community activities indicates that Commission experts shall carry out general and specific audits in Member States to verify the application of the multi-annual plan (Art. 45). Commission experts shall perform controls activities in third countries too in order to verify compliance or equivalence of third country legislation and system with Community feed and food law and Community animal health legislation.

Title VII on enforcement measures enlighten the actions in case of non-compliance. *“When the competent authority identifies non-compliance, it shall take action to ensure that the operator remedies the situation. When deciding which action to take, the competent authority shall take account of the nature of the non-compliance and that operator's past record with regard to non-compliance”* (Art. 54). Such actions shall include, among others, sanitation procedures, restrictions or prohibitions of the placing on the market, recall or withdrawal and suspension or closure of the business. Art. 55 defines that *“Member States shall lay down the rules on sanctions applicable to infringements*

of feed and food law and other Community provisions relating to the protection of animal health and welfare and shall take all measures necessary to ensure that they are implemented. The sanctions provided for must be effective, proportionate and dissuasive”.

2.6 The role of the Food and Veterinary Office

The Food and Veterinary Office (hereinafter FVO) is an Unit of DG SANCO based in Grange (Ireland). Its work is at the base of the verification of implementation and enforcement of controls in different areas of food and feed production, food quality, animal health, animal welfare and plant health.

The FVO's control activities ensure consumer and businesses that European regulations are properly enforced and that trade take place in an uniform matter and under high safety levels and standards.

The audits in the above mentioned areas take place following a multi-annual strategic outline. The plan can be reviewed on an annual basis to take into account any possible emerging issues and unforeseen circumstances.

In 2014 the FVO planned to carry out a total of 220 audits where 156 of them in EU-28 and acceding or candidate countries while 64 in third countries.

The FVO produces reports to ensure that results of the audits are presented in a manner that facilitate the resolution of the problems encountered and the proper implementation of the EU legislation. Other types of reports are country focused and summarise the results of the overall control activities in a certain Member State

Synopsis: *this chapter presented the detailed structure of the present regulations on organic production and relative amendments to better understand the development of the legal framework both for technical/procedural and subsidies aspects. The reviewing process, with stakeholders involvement, was described in further paragraph while the Commission's proposal for a new regulation was also analysed in detail with an overview of the main legal aspects. Controls at national and European level were also addressed. The scope of the chapter, beside presenting the information related to the topic, was to highlight the main aspects*

linked to the research question and sub-questions that will be widely explained and covered in the next chapter.

3. Results and discussion

Preamble: *The next chapter will present the results obtained from the desk and the empirical research. Firstly in paragraph 3.1, the desk research will display the implementation of the general principles in the European regulations. Paragraph 3.2 contains the findings related to the organic mass-catering sector in Italy and the Netherlands. Paragraph 3.3 provides insights on producer's declaration as well as eventual differences in definitions/procedures against irregularities, infringements and fraudulent behaviour. Paragraph 3.4 will cover the particular approach dedicated to the wine sector. Paragraphs 3.5 to 3.9 will cover the presentation of the results related to the empirical research and in particular the semi structured expert interviews of control bodies/authorities in the Netherlands and Italy together with the interesting results from the consumer's surveys carried out in the two countries.*

Desk research

3.1 Implementation of general principles in the European regulation

The following paragraph will cover the analysis of the legal framework in order to answer sub-question 1 and 2, as well as partially answering sub-question 3.

To better understand which principles were embedded in the harmonized European legislation the thesis took into consideration the contribution of IFOAM⁴⁷ and the general guidelines on organically produced food contained in the official papers of the *Codex Alimentarius* Commission.⁴⁸

A summary of the principles can be found in table below.

⁴⁷ IFOAM Organics International. Available on the Internet at: <http://www.ifoam.bio/fr/organic-landmarks/principles-organic-agriculture> (last accessed 30.05.2015)

⁴⁸ Codex Alimentarius, "Organically Produced Foods", third edition 2007. Available on the internet at: <ftp://ftp.fao.org/docrep/fao/010/a1385e/a1385e00.pdf> (last accessed 30.05.2015)

Table 1. General principles of organic production.

<u>What?</u>	<u>Why?</u>	<u>Where?</u>	<u>How?</u>
Principle of health	Healthy soils, animals and people	Farm to fork approach (farming, processing, distribution and consumption).	Avoiding use of fertilizers, pesticides, animal drugs, food additives, cleaning and disinfection products.
Principle of ecology	Improve environmental quality and conserve resources	Farm to fork approach (product, process, trade, consume)	Reducing inputs by reuse, recycling and efficient management of materials and energy
Principle of fairness	Real equitable and accountable environmental/social costs	Farm to fork approach (farmers, workers, processors, distributors and traders)	Fair production, distribution and trade system
Principle of care	Prevention of risk, enhance efficiency and increase productivity	Public authorities, producer's associations, research institutions	Synergy between scientific knowledge and practical experience through assessment of new technologies and existing methods.

The general structure of Council Reg. (EC) No 834/07 and subsequent implementing regulations, according with Art. 1(1)(a) and Whereas No 19, shall apply to all stages of production and distribution to guarantee the organic integrity of the productions. Subjects of the regulation are agricultural products

processed and unprocessed, seaweed and yeasts for use as food [Art. 1(2)(a,b)]. Any operator involved in activities related to those product from primary production up to storage, processing, transport, sale or supply the final consumer [Art. 2(b)] shall be subject of the regulation [Art. 1(3)].

According with Art. 2(j), the definitions of “food”, “feed” and “place on the market” are those referred in Reg. (EC) No 178/02 General Food Law.

The similarities with the GFL approach “from farm to fork” doesn’t end with those highlighted so far.

Another example can be found in Art. 91 Reg. (EC) No 889/08 that expresses a concept similar to Art. 19 GFL. “Where an operator considers or suspects that a product he has produced, prepared, imported or that he has received from another operator is not in compliance with the organic production rules, he shall initiate procedure either to withdraw...”

Traceability is also in the scope of this regulation and again, for this purpose, Art. 27(13) Reg. (EC) No 834/07 give responsibility to Member States to ensure that every item, at all stages of production preparation and distribution is in accordance with Art. 18 GFL.

However, beside the strong and evident intention of the legislator to guarantee application of the regulation all along the production chain according with Art. 1(3) Council Reg. (EC) 834/07, mass catering operations shall not be the subject of the regulation. Mass catering operations means the preparation of organic product in restaurants, hospitals, canteen and other similar food businesses at the point of sale or delivery to the final consumer [Art. 2(aa)].

As mentioned above, transport is in the scope of the regulation but, in compliance with Art. 28(1) Reg. (EC) No 834/07 they are not part of the control system.

Art. 27(3) of the Council Reg. (EC) No 834/07 further exempts wholesaler that deal with pre-packed food and operators selling to the final consumer from controls.

Other food items not covered by the regulation are pet-food and products from hunting and fishing. Packaging and food contact material are not covered by the regulation either.

Despite a continuous growth in terms of economic value inside and outside the European Union, the common Organic framework doesn't apply to non-food items such as textiles and cosmetics.

Art. 3 Reg. (EC) No 834/07 expresses the objectives that the legislator aimed to reach on writing and implementing the common organic framework. Sustainability [Art. 3(a)], biological diversity [Art. 3(a)(ii)] and responsible use of energy and natural resources such as water, soil, organic matter and air [Art. 3(a)(iii)] give the base for the implementation of the principle in the subsequent paragraphs of the regulation. Such concepts, although, are not further explained or defined and in general are translated and implemented in operational rules that are generally considered adequate to achieve the objectives of the regulation such as a minimal, less chemical as possible, input approach without further verifying the correctness. What seems to be missing in the practical production indication and relative control system is a procedure to evaluate that, implementing those practices, is a sufficient method to guaranty biodiversity, sustainability and responsible use of energy.

In other words there is no or just partial definitions, implementations and enforcement of measurable environmental indicators.

How to measure the level of biodiversity, if existing, in a highly specialized wine yard where 90% of the land is dedicated to a multiannual (20-25 years) crop?

For example, following the indications contained in Annex IV Reg. (EC) No 889/08 on the maximum number of animals per hectare shall ensure the avoidance of overgrazing, poaching of soil, erosion or pollution expressed in Art. 14(iv) Reg. (EC) 834/07. Measurements of these parameters are not required or either explained. Control bodies/authorities can be crucial on the application of these rules with their knowledge and technical expertise on validating a particular production plan but no further indication is expressed or made mandatory on verification and record keeping of environmental indicators.

The lack of a universal agreed definition of controversial terms such as sustainability, for example, could lead to a misuse of the term on "greenwash"

commercial claims to invoke a response from the sensitive consumer, but with no practical use in term of actions from the business side.⁴⁹

On a voluntary base, professional associations and control bodies/authorities are involved in designing standards for sustainable production.

ISO environmental series such as ISO 14040 and ISO 14011 could be an example as well as standards that imply validation and verification of practices for GHG (GreenHouse Gases) control as presented in ISO 14067.⁵⁰

According to the interviewed control bodies/authorities, the achievement of environmental private standards is to stimulate the demand and supply of products with lower impact or even better environmental performances through the use of market-based mechanisms.

In accordance with Art. 4(b)(i)(ii) there is a strict limit on the use of the external input but, where necessary, the inputs must be restricted to organically produced or naturally derived. One category of products largely used in organic agriculture that doesn't fit the description so far are pheromones. Pheromones are natural agents secreted by an insect that produces a change in the social behavior of another individual of the same species. Generally it is a volatile hormone that acts as a behavior-altering agent.⁵¹ In the last ten years they have been used in insects traps as attractive for species that are highly damaging for agricultural products. Natural pheromones are costly and difficult to find in the market and are largely replaced by chemically produced substances that act in the same way.

Article 9 of Reg. (EC) No 834/07 excludes the use of Genetically Modified Organisms (GMO) from organic production but is also connected with the EU scheme on mandatory GM labelling. The GM labelling allows the presence of genetically modified materials in organic production beyond the threshold of 0.9%.⁵²

⁴⁹ M.C. Ferrarese, Valoritalia 2013

⁵⁰ Available on the internet at: <http://www.iso.org/iso/iso14000> (last accessed 30.05.2015)

⁵¹ Definition available on the internet at:

<http://www.medicinenet.com/script/main/art.asp?articlekey=12896> (last accessed 30.05.2015)

⁵² H. Shmidt, 2009, "Interpretation and evaluation of the new regulation and its impact on specific areas of the sector". IFOAM-EU Group

According to Shmidt, the reference to EU mandatory GM labelling is a sufficiently reliable indication for organic farmers and processors to exclude engineered material into organic products, but it also opens a possibility for contamination under the mentioned threshold especially if the presence of GMOs is adventitious or technically unavoidable.⁵³

As previously mentioned, implementing Reg. (EC) No 889/08 set up a system of positive lists of specific substances and their use in organic production. The utilisation of an input is prohibited with the exception of those mentioned in the positive lists. Art. 16 of the Council Reg. (EC) No 834/07 further specifies that those products and substances are allowed for a restricted number of purposes such as plant protection, fertilizers, additives and processing aids, cleaning and disinfections, etc.

Substances that do not fall under those specific uses are generally not allowed or, as specified in Art. 16(4), every Member State can regulate the use of product different than those mentioned above.

For example, K-phosphite, that is used to increase the plants self-defence system against fungal attacks, is considered a plant strengthener, not included in the positive list, but used freely in certain Member States in wine growing. Many organic producers associations complain that phosphonate residues may be present in the wine, at the end of the production chain, despite the approval by Member State.

Another examples can be found in all those substances such as pirimiphosmethyl, needed to ensure correct and safe storage of organic agricultural products (especially dried grains and pulses) in storage facilities that are not contained in the positive lists but largely used by farmers and traders.

Art. 14(d)(i) Reg. (EC) No 834/07 expresses an important principle stating that feed for livestock must be obtained from the holding where the animals are kept or from other organic holdings in the same region. Member States can authorize

⁵³ Art. 12(2) Reg. (EC) No 1829/2003 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on genetically modified food and feed.

time-limited exception on the base of the flexibility concept (Art. 22 Reg. (EC) No 834/07) where organic feed is not available on the market or in the case of a natural disaster.

3.2. Mass catering sector

This paragraph will be functional to answer sub-question n. 3 and, after a brief general introduction on the organic catering sector in Europe it will focus on the two countries subject of the research.

According to recent data, the mass-catering sector is not always regulated among Member States. In countries such as for example Austria, Denmark and France, the sector is regulated at national level while in others, such as Italy, UK, the Netherlands, etc. it is regulated on a voluntary base, by private standards.⁵⁴

In general, the problem related to including the mass-catering sector in a common compulsory regulation, rely on the difficulty to find the wide variety of organic ingredients to cover the preparation of the various recipes as well as the huge work load of related document keeping and traceability. From the surveys carried out by the Thunen Institute, various stakeholders expressed concern because the adoption of compulsory regulation “would reduce flexibility, increase regulatory burden potentially limit the growth of the sector”. However the inclusion of the sector in compulsory common regulations will increase transparency towards consumers and add great visibility to the entire organic sector.

Italy

In Italy there is no national legislation that regulates organic catering. National legislation includes just generic reference to environmental and organic product and production in public contract law but without giving definitions or references and without setting up a control system.

⁵⁴ Sanders J., 2013, “*Evaluation of the EU legislation on organic farming*”, Braunschweig: Thunen Institute of Farm Economics

According to 2009 data⁵⁵, the value share of organic catering is around 2 billion euros with more than 1.4 million organic, or made with organic ingredients, meals served daily compared to a total of 5 million daily served conventional meals.

More than half of the total amount of daily served meals, including the majority of the organic, are related to school canteens and are served to children under the age of 15 years.

72% of organic meals are served in the north regions of Italy, 21% in the central regions and the remaining 7% in the south and in the islands (Sicily and Sardinia).

The reason why local and regional authorities are oriented on offering organic, or made with organic ingredients meals is because of the concern raised by scientific studies⁵⁶ on the fact that children are assuming a daily intake of chemical residues per Kg of body weight higher than the suggested Acceptable Daily Intake (ADI).

Regional administrations are more active in promoting and incorporating organic products and production in their legislative framework. 8 regions in 20 made guidelines to deal with organic catering, most of them related to access to public subsidies for contractors that intend to use organic ingredients in their food preparations.

Emilia Romagna Regional regulation n. 2/2002 addresses the mandatory use of organic production for at least 70% of the ingredients in meals prepared for public institutions with 100% organic ingredients in case of kindergartens and elementary schools. In the contract between the public administration and the caterer contained in the regional legislation, all specification concerning the service are detailed. A control system is also in place but without specific conditions on the record keeping. If organic ingredients are not present in the market, the caterer has to sign a self-certification attesting the impossibility to use a specific organic ingredient. If the competent local authority finds a false or not enough substantiated self-certification, the caterer must pay a fine. If, during

⁵⁵ Trionfi P., Referente ristorazione collettiva AIAB, February 2009.

⁵⁶ Lorenzini M., "Pesticide residues in Italian Ready meals and dietary intake estimation", Journal of environmental Science and Health, Part B, 2007

the contract period, the competent local authority finds more than 3 false or not enough substantiated self-certifications the contract will be interrupted.⁵⁷

A similar concept is expressed in the Veneto Regional regulation n. 29/2002 where, in schools, hospitals and public places, the use of organic ingredients is mandatory.

Regional legislation in Friuli-Venezia Giulia, Toscana, Lazio, Marche and Basilicata are more oriented on giving subsidies to those caterers that utilize a minimum organic ingredient for the preparation of their meals.

For example, in Friuli-Venezia Giulia, Regional regulation n. 15/2000 gives 30% cash back for those caterers that have utilized at least 60% of organic ingredients.⁵⁸

Local municipalities are in certain cases much more active in promoting organic principles. Macerata, a city in the Marche region, adopted in 2013 an organic and 0 Km policy for school canteens. Families are partially charged for the extra cost of the service, at least in its starting phase, and controls are performed with no specific indication by inspectors of the municipalities.⁵⁹

The Netherlands

In the Netherlands there is no national legislation that regulates organic catering and data regarding the sector are scattered and mainly deducted from the “Monitor Duurzaam Voedsel 2013”⁶⁰ and from an informal meeting with Gemma Tacken, Senior marktonderzoeker at LEI - Wageningen UR Afdeling Consument & Gedrag.

According with the monitor of sustainable food 2013 edited by the Dutch government the organic sector in caterings, restaurants and canteens is still very

⁵⁷ Emilia Romagna, Legge Regionale n. 29/2002. Available on the internet at: http://www.cia.it/anabio/svl/documentiRead?doc_id=3501&tpl_id=3&tpl=2 (last accessed 30.05.2015)

⁵⁸ Regione Friuli Venezia Giulia, Legge Regionale n. 15/2000. Available on the internet at: <http://lexview-int.regione.fvg.it/fontinormative/xml/xmllex.aspx?anno=2000&legge=15> (last accessed 30.05.2015)

⁵⁹ Comune di Macerata, biologico e km 0 nelle mense scolastiche, 2012. Available on the internet at: <http://www.comune.macerata.it/Engine/RAServePG.php/P/169141CMC0300/M/63471CMC0315> (last accessed 30.05.2015)

⁶⁰ Available on the internet at: <http://www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2014/06/04/monitor-duurzaam-voedsel-2013.html> (last accessed 30.05.2015)

limited, at least compared with the volumes present in Italy. Of the same opinion Dr. Tacken that underline the fact that in the Netherlands hot meals are mainly served in institutional facilities such as hospitals, prisons and elderly houses where, by governmental indications, hot meals are price oriented and prepared by 4 major contractors such as Sodexo, Albron, Eurest and Comet. None of them are, at the present moment, serving organic meals in the Netherlands. The immaturity of the sector is partially due to the organization of the public welfare in the Dutch government and partially due to the eating habit of Dutch people. According with Dr. Tacken, in the Netherlands most part of the people consume breakfast and dinner at home while lunch (out of home) is mainly constituted by cold, bread oriented meals. Organic certification of catering and restaurant businesses is voluntary and just few examples of certified restaurants are present in Amsterdam, Rotterdam and Den Haag according with the Dutch Control Authority SKAL.

3.3. Producer declaration, irregularities, infringements and fraudulent behaviour

Art. 28(1) Reg. (EC) No 834/07 gives indications for producers on how to adhere to the control system in order to be able to place a product on the market, as referred to in Art. 1(2) of the same Regulation, and referred to it as an organic one.

The operator has to:

- notify the competent authority of the Member State where the activity is carried out and
- submit his undertaking to the control system referred in Art. 27 Reg. (EC) No 834/07

In general Art. 27 gives freedom to the competent authority of each Member State as defined in Art. 2(n), normally at a ministerial level, to delegate the responsibility to a control authority, a control body or either a system where the two subjects coexist at the same time.

Control bodies and control authorities have competence of inspection and certification in the field of organic production. The first, as defined in Art. 2(o), is

a public administrative organisation and the latter, as defined in Art. 2(p) is an independent private third party.

Control bodies must be accredited by the national accreditation authority and be certified EN 45011⁶¹ or ISO Guide 65.⁶²

Member States shall also ensure that the control system allows for the traceability of each product at all stages of production, preparation and distribution in accordance with Art. 18 GFL and in particular to ensure consumers that organic products have been produced in compliance with the requirements set out in Reg. (EC) No 834/07.

Control authorities and control bodies, in accordance with Art. 29(1), shall provide documentary evidence to any operator who is subject to their control and meets the requirements laid down in Reg. (EC) No 834/07 and relative implementing regulations.

Once a producer becomes subject of the official control system through a control body or authority he must sign a contract in which the rules are laid down in details as well as the fees as stated in Art. 28(1).

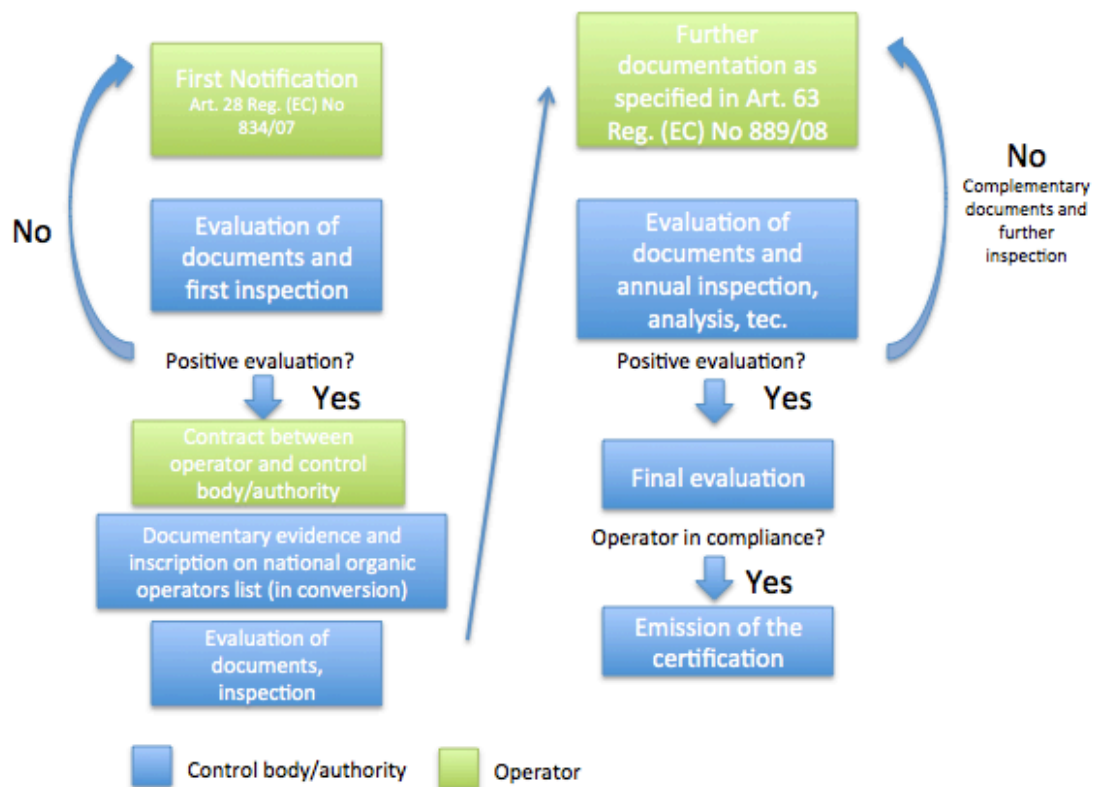
In the contract are laid down the responsibilities of the operator and the official duties of the control body/authority.

In the document it must be specified, among others, the measures in case of infringements and irregularities, procedures for complaints and appeals, duties of the producer in case of inspections, procedures of evaluation of the technical documents.

Figure n. 4. General certification scheme as described in Reg. (EC) No 834/07 and Reg. (EC) No 889/08.

⁶¹ NEN-EN 45011:1998 General requirements for bodies operating product certification systems. Available on the internet at: <http://www.nen.nl/NEN-Shop-2/Standard/NENEN-450111998-en.htm> (last accessed 30.05.2015)

⁶² ISO Guide 65:1996 General requirements for bodies operating product certification systems. Available on the internet at: http://www.iso.org/iso/catalogue_detail.htm?csnumber=26796 (last accessed 30.05.2015)



The Regulation doesn't define the terms infringement and irregularity and doesn't specify the actions to take either. National authorities, in the implementation process, should define specific definition and appropriate procedures.

3.4. Wine sector

Previous Regulation (EEC) No 2092/91 never covered the production of organic wine and, before the entry into force of Reg. (EC) No 834/07, the market offered two different kind of products. "Wine made with organic grapes" or "organic wine" certified according to private standards.

The European legislator decided to regulate the production of organic wine not within the Common Market Organisation but through a specific regulation, and in specific Reg. (EU) No 203/12.

Through the public consultation during the formulation of the Regulation (EC) No 834/07 proposal, the Commission had a clear response from the stakeholders. The request was to strictly limit the use of chemical substances on wine making and, where possible, to adopt the "0 input" policy already embraced in North America.

Further information was needed by the European legislator to set up a proper and specific legal framework for the organic wine sector. In 2006 the Commission started an ambitious research project called ORWINE. The project meant to deepen the knowledge in the sector by web consumers and producers surveys, market studies, regulation framework analysis, expert evaluation, laboratory and farm experimentations and organic wine samples analysis. According with official ORWINE⁶³ sources, the main objective was to provide a scientific background, in the form of a code of good practices, for the development of an EU legislative framework for organic wine processing and labelling at an European level. Together with previous surveys, the results from the ORWINE project researches showed, what European consumers require from an organic wine⁶⁴:

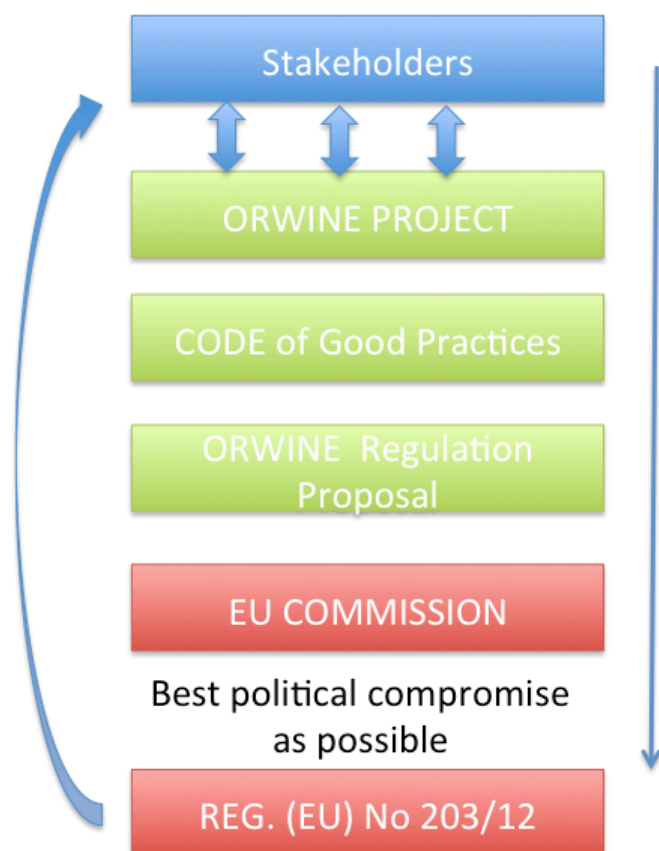
- No additive and processing aids that have a negative impact on human health;
- No additive that can effect the authenticity of a wine;
- Lower maximum threshold for critical substances, such as sulphites, than in conventional wine processing;
- Clear difference, easy to understandable to consumers, from conventional wines.

In general the idea of organic wine as genuine, family produced natural products resulted to be quite naïve when compared with the present situation where even small cellars have high technological and well organised equipment to achieve high quality production. Scientific researches within the ORWINE project demonstrated that is not possible to produce good wines without any addition of sulphites in a significant range of areas, wine types and different production years. The “0 input” approach can expose producers to high risk not to be able to produce, in certain years and in certain regions, high quality wines. The focus was on how to combine different technical and political positions and one of the most important results was to allow derogation system for particularly negative years.

⁶³ For detailed information on the ORWINE project : <http://www.orwine.org> (last accessed 30.05.2015)

⁶⁴ Micheloni C., AIAB, presented at BIOFACH Congress, Numberg, February 2009.

Figure 5. Process leading to Reg. (EU) No 203/12.



The focal point, among other issues, faced by the Commission was to reach an agreement on the use of sulphites (SO_2).⁶⁵ Many studies showed that a sensible reduction on the use of that particular chemical substance was possible maintaining the same quality in the final product prior to adopt a series of technical operations in the vineyard and in the cellar. A large majority of organic wines already have an SO_2 rate lower than the CMO suggested rates but, because the use of sulphites is largely dependent on the climatic conditions during the entire production cycle, southern European Member States were in favour of a 50% reduction while continental Member States were more oriented on a 20-30% reduction compared to conventional wines.

⁶⁵ Sulphites are naturally produced in small quantities during the fermentation process but they play also an essential role on preserving the product from oxidation, microbial decay and are key elements on maintaining the flavour of the wine. Excessive content of sulphur dioxide showed to trigger allergic reaction in persons already afflicted with asthma.

Tab. 2. Quantities of sulphites (SO₂) allowed in conventional and organic wines.

Wine type Reg. (EC) No 606/09	Conventional limit (mg/l) Reg. (EC) No 606/09	Organic wine limit (mg/l) Reg. (EU) No 203/12	Difference in %
Red wine (sugar < 5 g/l)	150	120	-20%
Red wine (sugar > 5 g/l)	200	170	-15%
White and Rosé wine (sugar < 5g/l)	200	170	-15%
White and Rosé wine (sugar > 5g/l)	250	220	-12%
Special wines (such as passito, eiswine, sauternes, etc.)	Average 350	Average 320	Average -8%
Quality sparkling wines	185	155	-16%

The Italian critic to the legislation by FEDERBIO is that those high limits allow a very small difference between organic and conventional wines. The use of SO₂ can push the production of wines with low quality grapes distracting the

attention of the producers from the important practices *ante* harvest in the vineyard.⁶⁶

Following the indications contained in Art. 113(2) Reg. (EC) No. 479/08⁶⁷ on the common organisation of the market in wine, for exceptional climatic conditions, every Member State can authorise a temporary increase on the maximum limit of SO₂ equivalent to the threshold allowed for conventional wines.

The technical and political process described in Figure 5 lead to the adoption of the present Commission Implementing Regulation (EU) No 203/12 on **organic wine** amending Regulation (EC) 889/08.

The regulation itself seems to consider the organic wine as a processed food and wine makers as food processors (whereas 1), detached from the process followed so far in the vineyard. The regulation contain a list of processes not allowed such as the concentration by cooling, dehalcoolisation, elimination of sulphites by physical processes, cation exchange, etc. (Art. 29) and a positive list (Annex VIIIa) with authorized products and substances for oenological production. In general just few points differ from conventional wine making.

3.4a. Labelling of organic wines

Reg. (EU) No 203/12 allows the producers to use the European organic logo on their organic wines without prejudice over other indications regarding the labelling of the food and beverage productions.

On the market should be still possible to find wines labelled with the indication “made with organic grapes”, especially for those wines that need longer maturing periods in the cellar but since the entry into force of the new regulation just organic wine shall be allowed in the market

With the introduction on December 13th 2014 of Regulation (EU) No

⁶⁶ Pinton R., Secretary General FEDERBIO, “Il nuovo regolamento sul vino biologico e la posizione di Federbio”, 2013. Available on the internet at: <http://www.federbio.it/files/787.pdf> (last accessed 30.05.2015)

⁶⁷ Council Regulation (EC) No 479/2008 on the common organisation of the market in wine, amending Regulations (EC) No 1493/1999, (EC) No 1782/2003, (EC) No 1290/2005, (EC) No 3/2008 and repealing Regulations (EEC) No 2392/86 and (EC) No 1493/1999. Available on the internet at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:148:0001:0061:EN:PDF> (last accessed 30.05.2015)

1169/2011⁶⁸ of the European Parliament and of the Council on the provision of food information to consumers, on the base of Art. 16(4) the sector was exempt from the obligation to display a nutritional declaration [Art. 9(1)(l)] and list of ingredients on the label [Art. 9(1)(b)].

The mandatory obligations in regard to the label are expressed in Art. 9(1) and specifically for alcoholic products the particulars to add to the label are enumerated in point a (name of food), c (allergens that for the product take into consideration are mostly represented by sulphites), e (net quantity), etc.

A point of uncertainty in organic wines is represented by Art. 9(1)(d) where, in regards to the mandatory particulars to show in the label, is however contradicted by Art. 16(4). If “the quantity of certain ingredients or categories of ingredients” refers to the list specified in Annex II of the same regulation, the quantity of sulphites will be soon enforced as mandatory.

Empirical research

3.5. Expert interview SKAL (the Netherlands)

The expert interview was performed with Mr. Jan Wicher Krol, Team monitoring & enforcement manager of Skal⁶⁹ and Secretary of EOCC⁷⁰ the 26th of September of 2014 at Skal offices in Zwolle (the Netherlands).

1. Q: Can you please explain how the certification control system is structured in your country?

A: Since the entry into force of the first European organic regulation in the beginning of 90's Skal was already doing private organic standard certification at a national and international level. The Dutch Ministry of Economic Affairs, as competent authority, didn't feel the necessity to create a new entity and appointed Skal as the official Dutch Control Authority, previous accreditation by RVA (Dutch accreditation authority).

⁶⁸ Available on the internet at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011R1169&from=EN> (last accessed 30.05.2015)

⁶⁹ Dutch Control Authority appointed by the Ministry of Economic Affairs.

⁷⁰ European Organic Certifiers Council.

Since then, Skal has large autonomy on applying and partially enforcing organic regulations. When Skal has reason to believe that a specific behaviour should be deemed as fraudulent and is not possible to set it internally, the case is communicated to NVWA. The Nederlandse Voedsel- en Warenautoriteit is responsible for investigation and prosecution under Dutch criminal law.

2. Q: Can you please explain the difference between infringement and irregularity?

A: The Skal internal regulations define 3 categories of non-conformities: minor, major or fatal and are dependent on the gravity of the facts. Minor non-conformities are linked to errors in procedures, document keeping, etc. Major non-conformities are related to contamination of batches with non-allowed substances as well as repeated minor non-conformities. This first two categories are more related to irregularities while the third category falls more under the definition of infringement. Fatal non-conformities are related with severe actions that affect the integrity of the food chain and can lead to the withdrawal of the certification of organic operator.

3. Q: Are the measures for infringement and irregularities clearly stated in the “contract” that every producer has to subscribe with the control body/authority?

A: Yes they are. The operators are aware of the different non-conformities as well as the internal assessment methods and procedures. Those are information available in the website as well. In the contract that operators sign with Skal and that’s not public there is also a table with the internal sanctions

4. Q: To what extent do the national control bodies/authorities consider infringement or irregularity and at what stage does fraudulent behaviour take place?

A: As mentioned in the previous question the approach to non-conformities is clearly stated and agreed to in the relationship between Skal and the organic operator. Skal, as Control Authority, has further procedure to interpret different points of view. For specific cases an internal court, with an independent judge, could lead to fast resolutions of disputes related to major or fatal non-conformities. What is more discriminant on the evaluation of certain non-conformities is the frequency in which certain actions are repeated. A major or fatal non-conformity can happen for many reasons sometimes independently from the willingness of the operator. If those situations are repeated in a short period of time there is a high probability that the operator is clearly following a fraudulent behaviour. In this case Skal has an obligation to communicate the irregularity to NVWA for further investigation and, eventually, prosecution.

5. Q: What are the differences in consequences attached to fraudulent behaviour in your country?

A: It really depends on the specific case, on the type and on the frequency of the non-conformity and on the willingness of the operator to set the dispute. In extreme cases, NVWA will prosecute the operator in penal court but in general fraudulent behaviour in the Netherlands has a very low incidence.

6. Q: Are there financial sanctions for non-compliance borne by the producer/importer?

A: Each non-conformity eventually generates an extra cost for the operator. Once a non-conformity is detected, every extra inspection,

analysis, paper work will raise a sort of fine. For instance a singular extra inspection is charged 100 Euros while a second extra inspection cost 250 Euros and so on. Once a case is brought in front of the internal court the independent Judge can order fines for up to 15,000 Euros.

3.6. Expert interview ICEA (Italy)

February 13th 2015, a phone interview was performed with Mr. Alessandro Pulga, Director of the Italian Control Body ICEA.⁷¹

1. Q: Can you please explain how the certification/control system is structured in your country?

A: Every year the competent authority (Mipaf)⁷² through the Italian standard authority (Accredia) that is a public/private company, and its accreditation method, appoints a certain number of control bodies all around the country. The number varies pretty much each time due to private market strategies and to de-accreditation of certain control bodies not in line with the indications of Accredia. Control bodies have the authority to certify national, EU and extra EU producers and importers while the enforcement related to unsolved infringements is delegated to the organ of the Ministry of agriculture called ICQRF.⁷³

2. Q: Can you please explain the difference between infringement and irregularity?

A: In January 1st 2014 came into force the Ministerial Decree 15962 of the Ministry of Agriculture. It contains definitions of infringement and irregularity. Those definitions are expressed in specific national regulations and they refer to a specific production. Inobservances are

⁷¹ Istituto Certificazioni Etiche e Ambientali.

⁷² Ministry of Agriculture.

⁷³ Ispettorato Controllo Qualità e Repressione Frodi. Inspectorate Quality Control and Fraud Repression.

little mistakes that producers have to solve under a written invitation by the Control Body (warning). Irregularities are defaults that lead to the abolition of the organic indication for a certain batch. Infractions are severe non-conformities that lead to a complete suspension of the producer in respect to the organic certification. Irregularities and infractions must be communicated by the Control Body to others Control Bodies and to the Ministry of agriculture.

3. Q: Are the measures for infringement and irregularities similar and clearly stated in the “*contract*” that every producer must subscribe to the control body/authority?

A: As all Italian laws, the Ministerial decrees are published and public but they are not yet part of the contract signed with the organic operator. The contract contains the indications related to the specific decree and operators are in general aware of the consequences related to non-correct actions.

4. Q: To what extent do the national control bodies/authorities consider infringement or irregularity and at what stage does fraudulent behaviour take place?

The Ministerial Decree 18096 gives indication on how to interpret such a matter. Gravity of a non-conformity is strictly related to the frequency of that specific action. A series of little inobservances can lead to a more severe irregularity and so on. ICQRF will decide if the communications received from the Control Body in respect to a certain operator must be considered as fraudulent behaviour and be prosecuted.

5. What are the differences in consequences attached to fraudulent behaviour in your country?

As explained previously, if non-conformities are set among the relationship control body-organic operator, the consequences are warnings, abolition of organic indication for a certain batch or suspensions of the certification for an operator. Once, eventually, fraudulent behaviour has been recognised by the ICQRF the operator can be prosecuted for false and/or misleading communication, false or misleading labelling or market fraud. Communications to the ICQRF are normally sent by Control Bodies but also by general enforcement authorities such as Carabinieri⁷⁴ and Police, Health authority etc. In general the options in prosecuting an organic operator are similar for conventional sectors or for any other product present in the market. The Italian Parliament is now working on a specific law to deal with fraudulent behaviour in the organic sector that, in general, should improve the efficacy on contrasting illegal practices.

6. Are there financial sanctions for non-compliance borne by the producer/importer?

The Control Body has no enforcement responsibilities or at least none more than the actions previously explained and all of them are not considering direct financial sanctions. Once ICQRF decides if the illegal behaviour took place and at the end of an eventual court trial (civil or penal depending on the fraudulent behaviour) that can take years, the operator recognised guilty will pay a financial sanction. The uncertainty of the sanction, the objective difficulty on communication between the numerous authorities involved and the length of the judgmental trial decrease the deterrence power of the actual national legal framework.

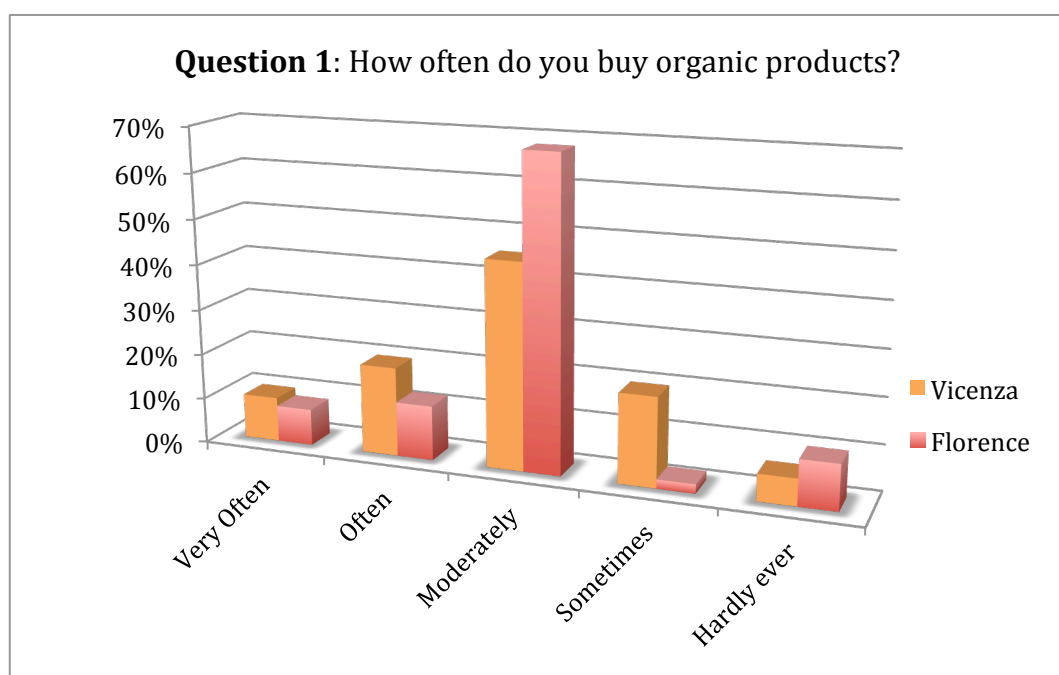
⁷⁴ Enforcement authority similar to Police.

3.7. Consumer Survey

The survey was carried out the 19th and 20th of December 2014 in Florence (Italy), the 27th and 28th of December 2014 in Vicenza (Italy) and the 30th of December 2014 in Ede (the Netherlands). Consumers were asked to fill the questionnaire in front to major retailers (Panorama and Coop in Italy, Jumbo and Albert Hein XL in the Netherlands). The questionnaire was handed out in a portable rigid board together with a pen. Consumers were free to ask information on how to fill the questionnaire but encouraged to use their own knowledge to answer to the questions. A total of 202 complete questionnaires were collected and elaborated through an excel sheet to extract tables and graphics and through SPSS to determine P-value (significance level 0.05) and statistical difference of the data sets. A detailed explanation of the questionnaire and of the questions formulated in order to carry out the surveys, are contained in Annex III.

3.7a. Italy

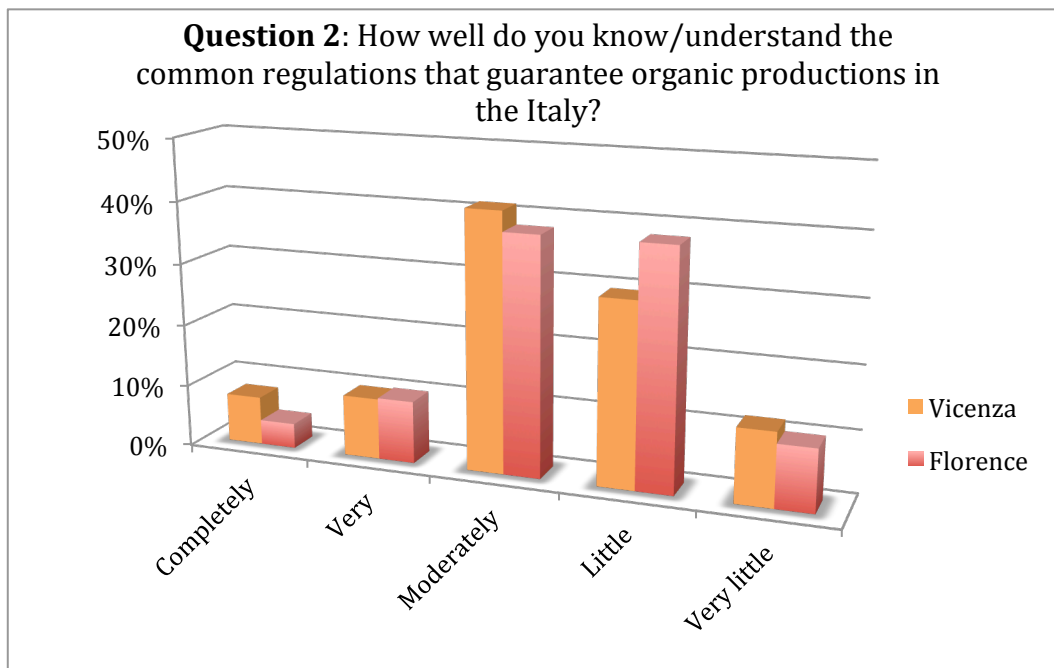
Question 1



The survey conducted in Florence and in Vicenza recorded a purchasing behaviour that seems to be consistently different. Almost 70% of the respondents in Florence admit to purchase organic products moderately while in Vicenza just over 40% of the consumers moderately purchase organic items. Despite such a large variance, the analysis didn't show a statistical difference between the two sets of data (P-value= <0.05) not suggesting a different purchase pattern in the two Italian cities.

Question 2

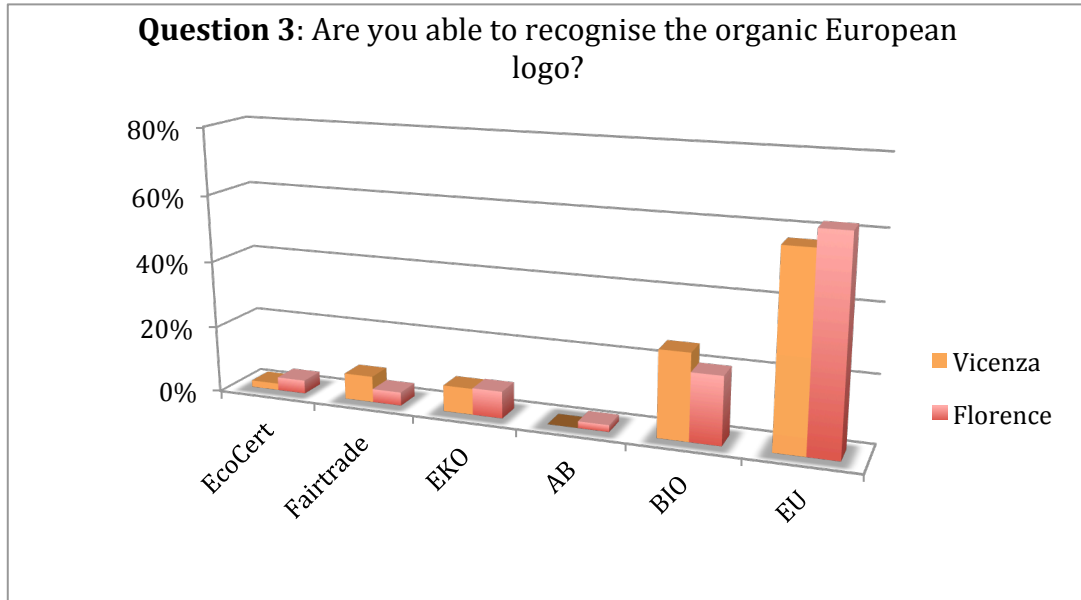
The statistical analysis suggests that there is no difference in the answer patterns between Florence and Vicenza. What is possible to affirm is that almost 60% of



the respondents in the north of Italy declare to know/understand legislation moderately or little while in the central Italy the percentage is raised to more than 70%. In both cities the percentage that register a complete knowledge of the legislation is lower than 10% very similar to the percentage that affirm a very little knowledge.

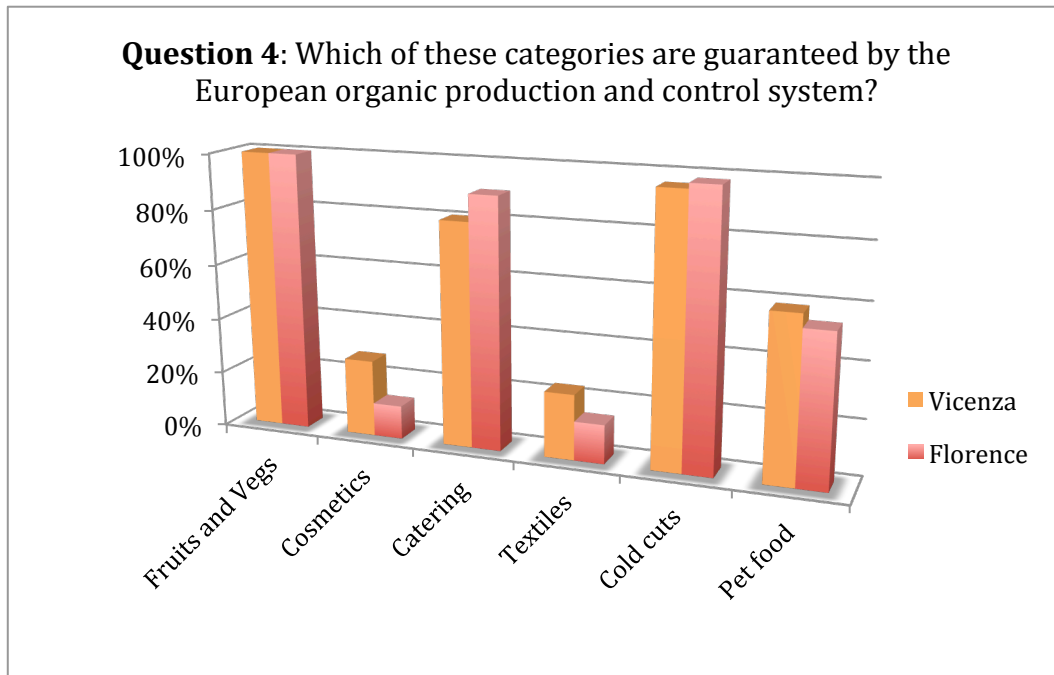
Question 3

In general 60% of the respondents in the two major cities in Italy were able to recognise the European organic Logo while the rest of the consumers were confused by other private/national standards logos.



Question 4

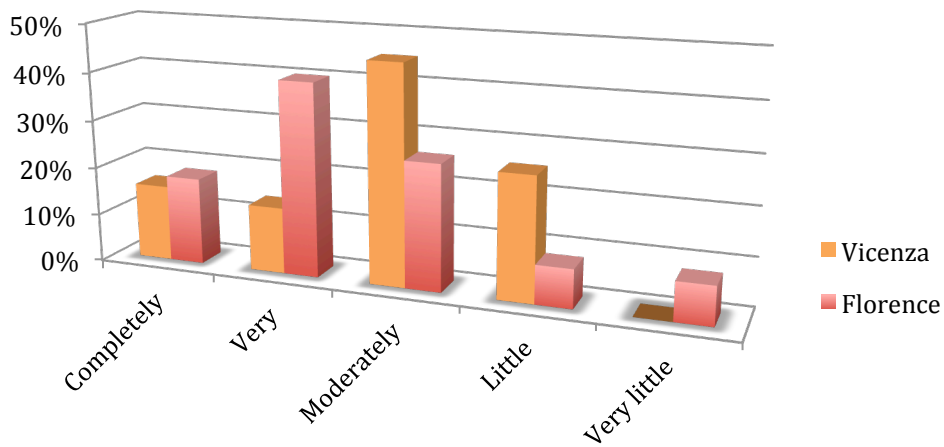
Almost 100% of the respondent in Florence and Vicenza knows that the European organic legal framework guarantees the production of cold cuts, fruits and vegetables. What is quite interesting is that around 80% of the same consumers are also confident on affirming that the catering sector is also part of the European regulation. More than 50% of the consumers perceive that pet food too is covered by common legislation.



Question 5

The statistical analysis performed on the two sets of data related to question n. 5 showed no difference on the two patterns with a p value bigger than 0.05. In general it's possible to affirm that more than 50% of the respondents are moderately or very confident that regulations are applied and enforced while a lower percentage are "little" or "very little" confident. Between 10 and 20% of consumers are completely confident that regulations are thoroughly applied and enforced.

Question 5: How confident are you that regulations and controls are applied and enforced on producers and control authorities?

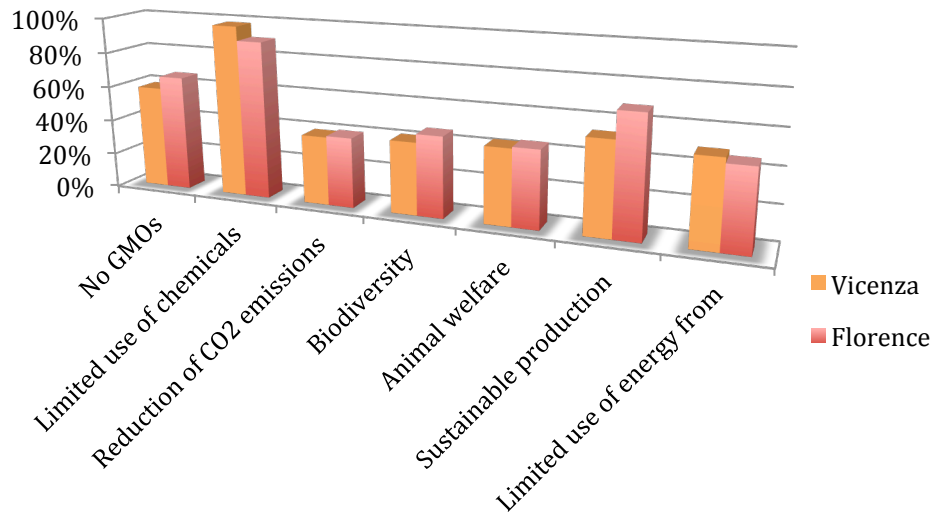


Question 6

If almost 90% of the consumers affirm that organic productions embed the principle of limiting the use of chemical substances, just less than 60% of the respondents are confident that the organic regulations, bans the use of Genetic Modified Organisms. Sustainable production is a principle recognised by an average of 50% of the consumers while just less than 40% of them are able to affirm that biodiversity and animal welfare are enhanced by the common regulation. Limited use of energy by non-renewable sources and reduction of carbon dioxide emissions were principles chosen by an average of 40 % of the respondent.

In general the pattern highlighted by the two sets of data seems very similar for both cities.

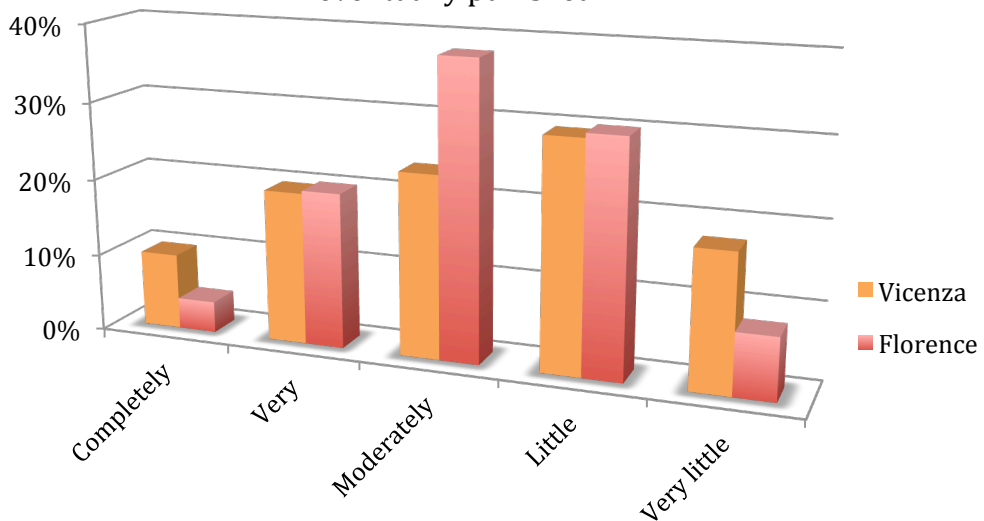
Question 6: Which of the following principles are implemented and controlled by national and European authorities?



Question 7

After the statistical analysis of the two sets of data it's possible to affirm that there is no difference between Vicenza and Florence. Almost 40% of the consumers are "little" or "very little" confident that non-conformities are detected and punished.

Question 7: How confident are you that the non-conformities of the control authority and producers are detected and eventually punished?

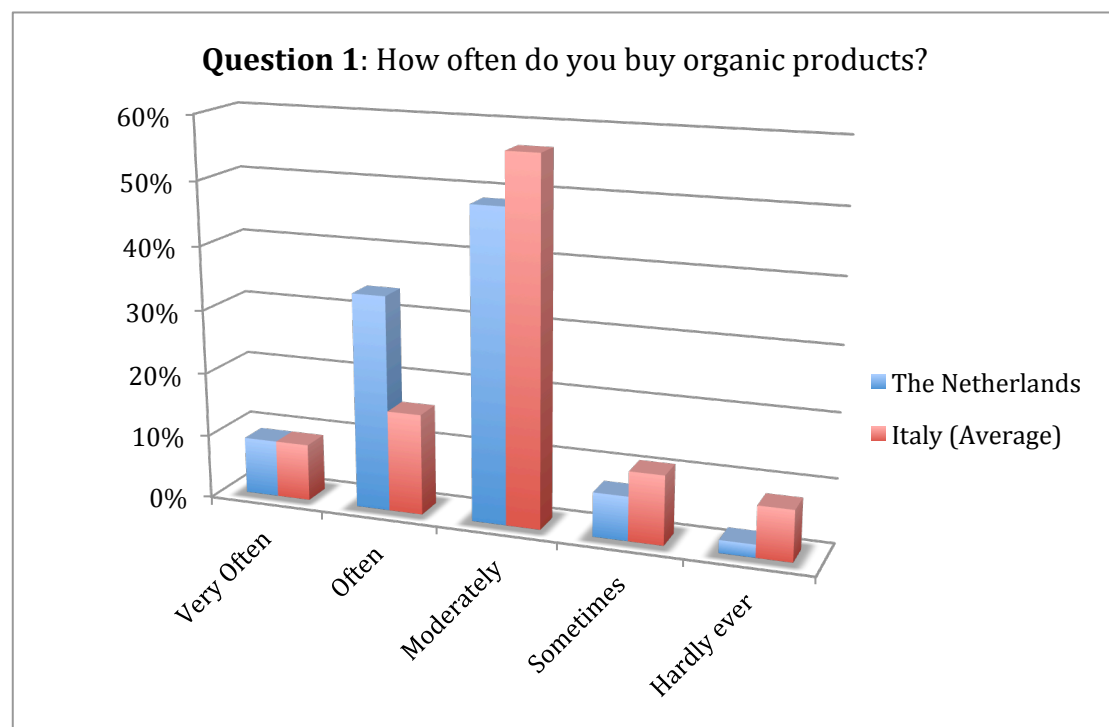


3.7b. Comparison between Italy and the Netherlands

Due to the non-significant differences among Italian data, the average between the two set was utilised on comparison with Dutch data. A t-test was performed to further underline possible differences.

Question 1

The t-test (-2.651) with 200 degrees of freedom and size of 202 samples, highlighted a significant difference between purchasing behaviour in Italy and in the Netherlands (p-value <0.01). In general, for Dutch consumers, the curve is skewed to the left in respect to Italian responders and that suggest a more frequent purchasing behaviour in respect to organic products.

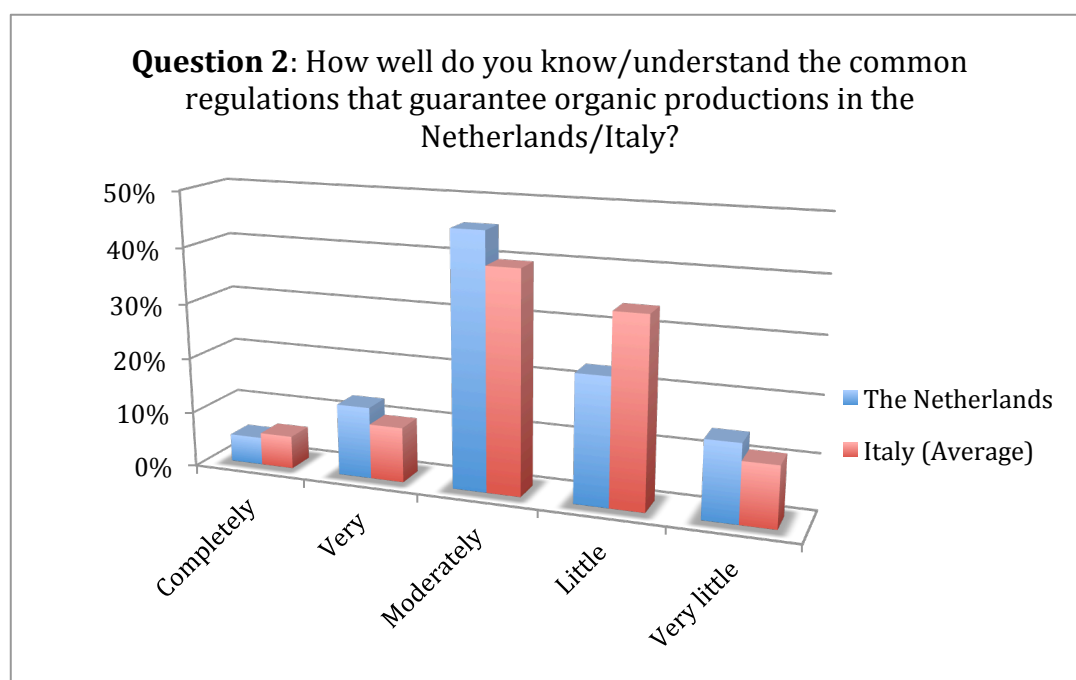


Almost 40% of respondent in the Netherlands purchase organic products often or very often while in Italy the share drops to circa 20%. At the opposite end of the curve just 9% of the Dutch consumers purchase “sometimes” or “hardly ever” while the Italian share rises to 19%.

Question 2

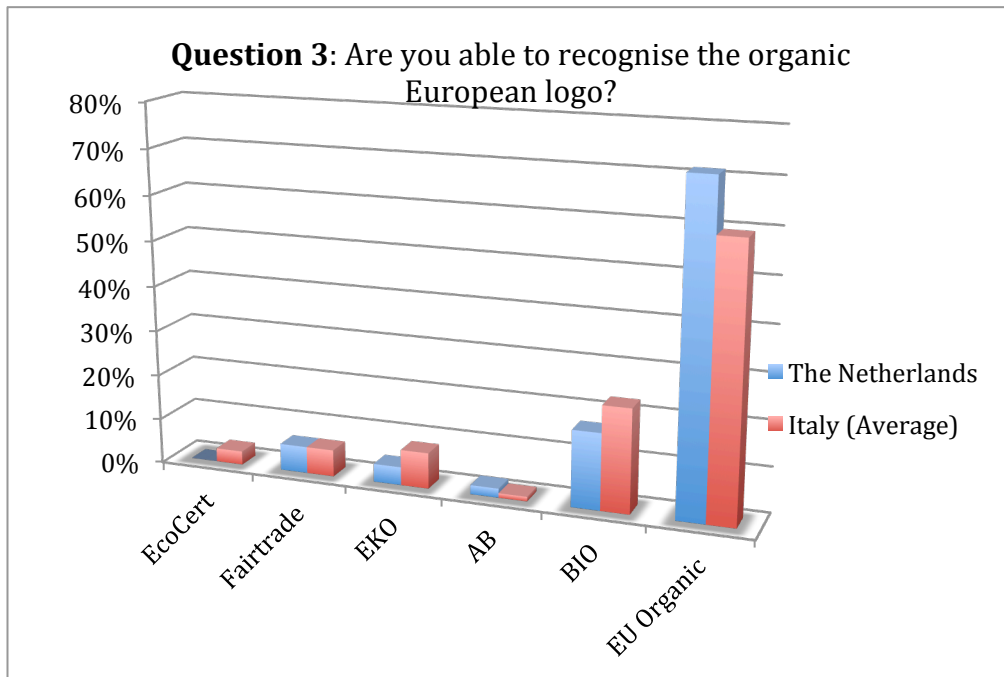
The statistical analysis showed no statistical differences in knowledge/understand of common regulations between Italy and the Netherlands.

In general, in both countries, almost 70% of the responders have moderate/little knowledge of the organic legal framework and just 15% of the consumers express a very deep or complete understanding of the legislation.



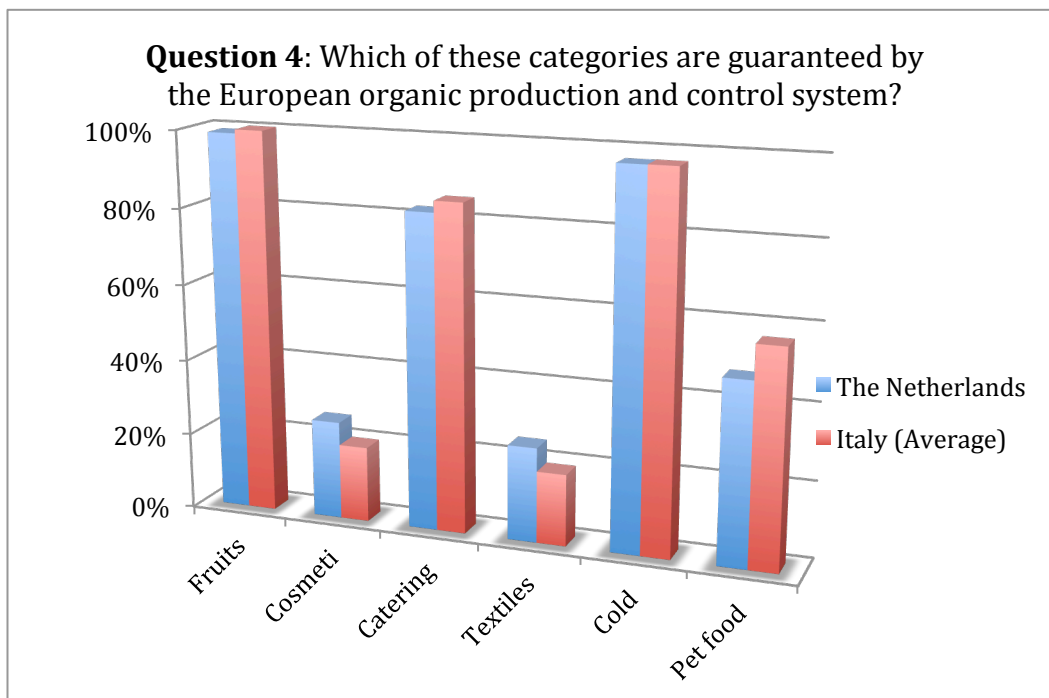
Question 3

In the Netherlands 71% of the consumers that took part in the survey were able to recognise the European organic logo while in Italy the share was lower than 60%. In both countries almost 20% of the respondents choose Bio as the logo representing the organic products covered by the common regulations. Smaller percentages represent other private standards logos



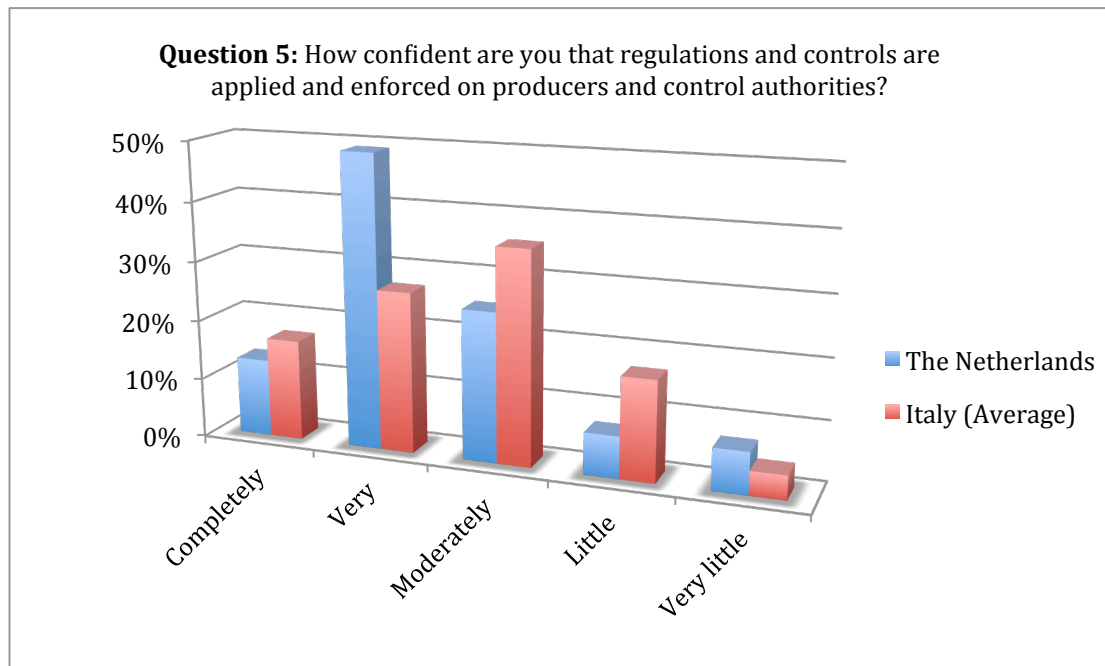
Question 4

The knowledge on what categories are guaranteed by the European organic production and control regulations is very much similar. In both countries, besides fruits, vegetables and cold cuts, consumers believe that catering and pet food are sectors are covered by the harmonised organic legal framework.



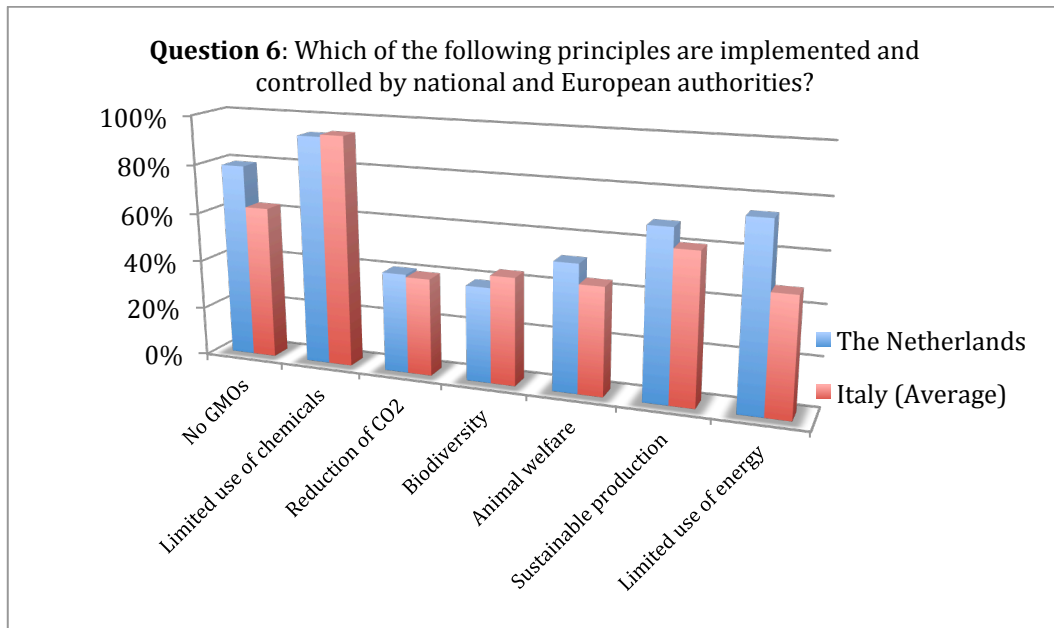
Question 5

Confidence on enforcement and controls, despite an apparent difference, did not show statistical difference after the t-test.



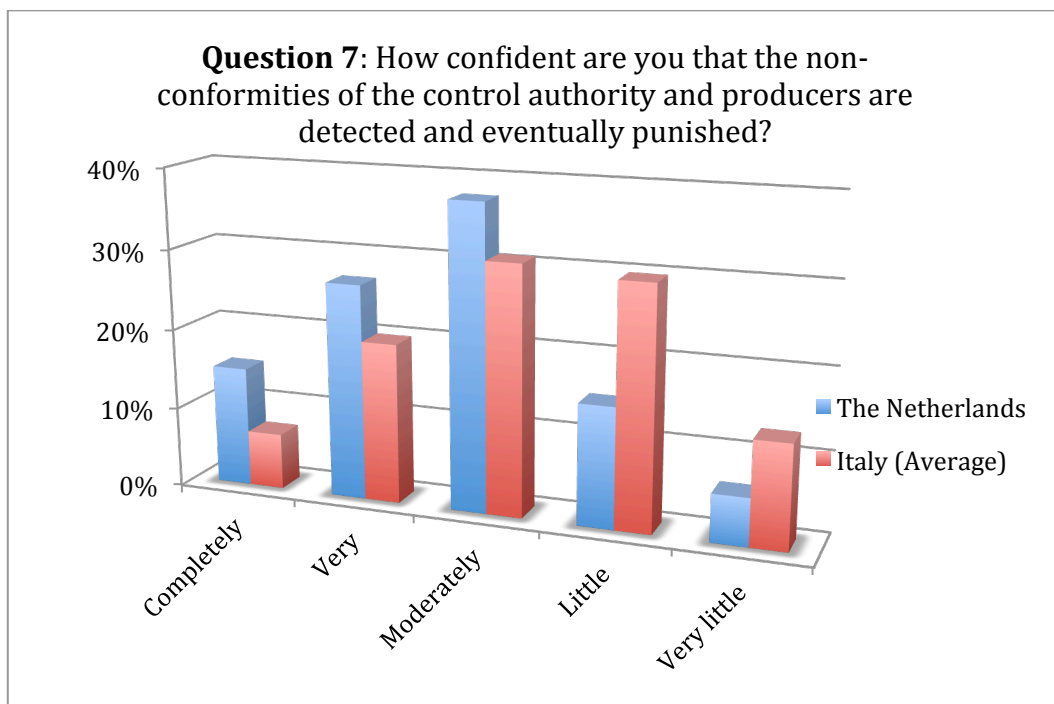
Question 6

Similar answers were given in both countries in respect to the implementation of certain principles. The ban on the use of GMOs was known by almost 80% of the respondents in the Netherlands while in Italy just 62% were aware of that. Dutch consumers were also more confident on the belief that applying European organic regulations will impact the use of renewable energy resources (74%) while Italians were more sceptical on the capability of the framework on limiting the use of fossil energy (47%)



Question 7

Statistical analysis confirmed a difference between the two sets of data. With a value of the t-test of -3.324 and a p-value smaller than 0.005 it's possible to affirm that Italian consumers are less confident on detection and prosecution of non-conformities than Dutch consumers.



Synopsis: *The chapter presented the results obtained from the desk and the empirical research. The desk research showed in paragraph 3.1 the implementation of the general principles in the European regulations. Paragraph 3.2 contained the findings related to the organic mass-catering sector in Italy and the Netherlands. Paragraph 3.3 provided insights on producer's declaration as well as differences in definitions/procedures against irregularities, infringements and fraudulent behaviour. Paragraph 3.4 covered the particular approach dedicated to the wine sector. Paragraphs 3.5 to 3.9 contained the presentation of the results relating to the empirical research and in particular the semi structured expert interviews to control bodies/authorities in the Netherlands and Italy together with the interesting results from the consumer's surveys carried out in the two countries.*

4. Conclusions

Preamble: *in this chapter every single sub-question will be answered in a dedicated paragraph that, for many of them, means the combination of the results from the desk research and the empirical research. The organic principles embedded in the European organic legal framework will be addressed in sub questions 1 and 2, while the results of the desk research on the catering sector in Italy and in the Netherlands will be explained by answering sub-question 3. Details on the contractual relationship between producers and control bodies/authorities in the two countries objective of the research are summarized in answering sub-questions 4, 5 and 6. Purchasing behaviour, knowledge and confidence of Dutch and Italian consumers towards organic products and regulations are matters of sub-question while sub-question 7 will address the results on the comparison of the concept of flexibility in organic wine making among the two Member States. Policy changes at EU level are foreseen in answering sub-question 9.*

Sub-question 1

What are the organic principles embedded in the European organic legal framework?

Following the general indications expressed by IFOAM and comparing them with the analysis of the Regulations widely discussed in the previous chapter, it was possible to summarise the principles embedded in the European Organic legal framework as described in Table 2.

Principle of health: the aim on the limitation of chemical/synthetic substances along the supply chain. The use of specific substances is addressed by positive list and is limited to a specific use (plant protection, plant strengthener, additive, cleaning and disinfection, etc.). The farm to fork approach is partially implemented and focuses more on the early stages of primary production and on the process. Exemptions are granted to distribution operators, mass caterers and retailers.

Principle of ecology: reduction of inputs is reached by reuse, recycling and efficient management of materials (reuse of self produced manure, crop rotation, varietal choice, etc.) and energy (reuse of water, low energy practices, water and air pollution, etc.). Some of the practices, in particular regarding the materials, are compulsory in primary production but still vague in food processing and further along the supply chain.

Principle of fairness: environmental and social costs should be fairly distributed along the supply chain. One specific aspect is related to the concept of flexibility that, when properly interpreted, creates a fair level playing field taking into consideration the socio-cultural-climatic differences among Member States. The possibility that a misuse of the concept of flexibility can lead to unfair conditions for producers is directed in sub-question n. 8. However, it seems in general that the regulations are mostly addressed to operators of the primary production and just partially to other subjects along the food chain. In practice processors, distributors, importers and retailers take great advantage from the effort of farmers and breeders and from the seriousness of the regulation without carrying a comparable load of responsibility towards the institutions and the consumers.

Principle of care: prevention of risk is ensured through a process of assessment of new technologies together with existing methods without compromising on increasing productivity and efficiency. Scientific knowledge is tested over practical experience and vice-versa. This principle is basically embedded in the regulation through the application of the concept of flexibility and through the process of revision of the legislation.

Table 3. Implementation, verification and controls of the organic principles.

What?	Why?	Where?	How?	Implementation on harmonised EU legislation	Verification and controls
Principle of health	Healthy soils, animals and people	Farm to fork approach (farming, processing, distribution and consumption)	Avoiding use of fertilizers, pesticides, animal drugs, food additives, cleaning and disinfection products	Adoption of positive list with products that can be used just for a specific purpose. Partially implemented along the supply chain.	National and European official controls. Exemptions or partial implementation in many sectors along the supply chain
Principle of ecology	Improve environmental quality and conserve resources	Farm to fork approach (product, process, trade, consume)	Reducing inputs by reuse, recycling and efficient management of materials and energy	Maximum quantity of recycled inputs (manure). Indication on efficient management of production systems but no measurable indicators for erosion, water, energy, etc. Partial implementation.	National and European official controls. Exemptions or partial implementation in many sectors along the supply chain
Principle of fairness	Real equitable and accountable environmental /social costs	Farm to fork approach (farmers, workers, processors, distributors and traders)	Fair production, distribution and trade system	Flexibility granted at each Member State and partial implementation along the supply chain.	National and European revision from harmonisation point of view of management systems, substances and limits.
Principle of care	Prevention of risk, enhance efficiency and increase productivity	Public authorities, producer's associations, research institution	Synergy between scientific knowledge and practical experience through assessment of new technologies and existing methods	Application of the precautionary principle, ban on the use of GMOs, exchange of data among the actors involved.	SCOF, European Project Europe 2020, Scientific research, on-going national and supra national process.

Table 4. Articles and Annexes related to the organic principles.

Principle	General	Plant production	Animal production	Processed food	Wine production
Principle of health	Art. 3, Art. 4 Reg. No 834/07	Art. 5 and Art. 12 Reg. 834/07, Annexes I and II Reg. 889/08 (positive lists)	Art. 5, 14 Reg. 834/07 Art. 8 to 14 Annexes III IV V and VI Reg. 889/08	Art. 6, 19 Reg. 834/07 Art. 28 and 27, Annex VIII Reg. 889/08	Art. 29d, Annex VIIIa Reg. 203/2012
Principle of ecology	Art. 3, Art. 4 Reg. No 834/07	Art. 5 and Art. 12 Reg. 834/07, Art. 3 Reg. 889/08	Art. 5, 14 Reg. 834/07 Art. 15 to 22 Annex IV Reg. 889/08		
Principle of fairness	Art. 3, Art. 4 Reg. No 834/07 Art. 22 Reg. 834 (flex) + Art. 39 to 47 Reg. 889/08 (exceptional rules)				
Principle of care	Art. 3, Art. 4 Reg. No 834/07 Art. 16 Reg. 834/07 (authorisation) Art. 26 Reg. 889/08 on GMP and Haccp				

Sub-question 2

Are those principles translated into measurable standards or procedures and are they verified via official controls?

Principle of health: Substances included in the positive lists are related to quantities or maximum limits that are verified in *primis* by the producers and further officially controlled by control bodies/authorities at national level. A third level of control is put in place in respect to national control bodies/authorities by the official controls performed by the European Food and Veterinary Office. The obligation of keeping the organic products physically separated from the conventional ones along the production chain suggest that the risk of possible contamination was assessed minimal enough to exempt distributors and retailers from the control system

Principle of ecology: The presumption that the correct management of organic productions in line with the existing regulations has an effective influence on the reduction of energetic inputs has still impeded the adoption of proper environmental indicators. As widely explained in the previous chapter, official controls are in place for the verification of the use of certain inputs (e.g. manure) or the application of certain practices (e.g. crop rotation) but is not addressed for the verification of other parameters such as soil erosion, air and water pollution, use of non-renewable energies, etc.

Principle of fairness: all parameters and methodologies contained in the regulations are fairly verified and controlled. What can be highlighted is an unbalanced distribution of responsibilities among operators of the supply chain.

Principle of care: At small scale this is done by control body/authorities on the evaluation of the production plan of operators of the primary production while, at national and European level it is done by national authorities (on authorising the use of new substances or granting exceptions) and by European authorities (on updating the regulation, the positive lists, etc.)

Sub-question 3

Are there differences in the implementation of the regulations, specifically in the catering sector, between Italy and the Netherlands?

Due to the particular fact that in the Netherlands the mass catering sector, especially in schools and hospitals is substantially different than Italy, it's very difficult to compare the sector in the two Member States. What is possible to affirm is that in both countries a national legal framework that regulates the sector doesn't exist. In Italy, regional governments, occasionally regulate catering in schools, hospitals or working places canteens in terms of procedures and controls in private contracts.

Sub-question 4

Are the measures for infringement and irregularities similar and clearly stated in the "*contract*" that every producer has to subscribe with the control body/authority?

The desk research and the expert interviews performed in Italy and in the Netherlands highlighted a similar approach on dealing with non-conformities. In both countries the definitions and the measures related to the gravity of the non-conformities are stated in the contract. In the Italian version, by the way, there is a citation of the Ministerial Decree and not a clear statement, while in the Dutch version it presents a clear overview of the actions and, more importantly, of the financial sanctions linked to operators non-conformities. In general it's possible to affirm that in the Netherlands the structure of the contract between the Control Authority and the organic operator is clearer than in Italy and that seems to increase the efficacy as deterrent against non-correct behaviour.

Sub-question 5

To what extent do the national control bodies/authorities consider infringement or irregularity and at what stage does fraudulent behaviour take place?

As results of the entry into force of the Commission Implementing Regulation (EU) No 392/2013 in January 1st 2014 and as confirmed by the expert interviews

in both countries, the approach to the categorisation of non-conformities is similar. Gravity and frequency are the discriminator of the severity of the action. If in Italy these are called inobservances (less severe), irregularities and infractions, in the Netherlands the non-conformities are divided in minor, major or fatal, however both lead to a similar procedure and consequence. It's discretion of the control body/authority to evaluate if, on the basis of the frequency in which a certain action is performed and the history of the operator, a specific behaviour must be considered fraudulent. The status of Control Authority permits Skal to be more effective in terms of efficacy to define unclear situations in a faster way.

Sub-question 6

What are the differences in consequences attached to fraudulent behaviour in the two countries?

When the Control Body/Authority has a reason to believe that an operator performed a fraudulent behaviour, an official communication must be delivered to the competent organ for further investigation and, eventually, prosecution.

The system of the internal court adopted in the Netherlands seems to be an appropriate tool to further evaluate the case and in the final instance, reach a fast solution and a sort of enforcement via financial sanctions, even before the involvement of the official prosecutor. In Italy, due to a higher number of subjects that must be involved in the procedure, the communications, the investigations and the prosecution also via financial sanctions seem to be slower and eventually less effective, also as deterrent for other operators committing possible fraudulent behaviours.

In the Netherlands, as underlined during the expert interview, there is a very low incidence of judiciary prosecution due to fraudulent behaviour in organic practices while in Italy, at front of a sensible number of cases, the application of non specific legislation makes the prosecution slower and less effective. At the present moment a specific legislation regarding the prosecution of fraudulent behaviours in the organic sector is under debate at the Italian Parliament. The

application of specific legislation can be very effective as well as to represent a further step in considering the organic production crucial for Italian economy and towards the protection of consumers.

Sub-question 7

Are consumers aware on how legislation affects the organic productions, and are they confident on how it is applied?

Italian consumers respond to the question in a similar way despite the socio-cultural differences of the two cities subject of the survey. In one hand they are confident on their knowledge of the regulation supported by the fact that a large majority is able to recognise the European organic logo. On the other hand they think that the common organic legal framework also guarantees mass catering and pet food productions. They are also relatively confident that regulations are correctly applied and enforced by control bodies/authorities but they still struggle on understanding which principles are applied along the organic production chain. In Italy consumers purchase less often than in the Netherlands despite having similar knowledge of the regulations and of the European organic logo. In both countries the respondent believed that catering and pet food are subject to the common legal framework and show similar confidence on the application and enforcement of the organic rules. They show rather a similar perception on the principles implemented on the legislation. What is statistically different is the confidence on detection and prosecution of non-conformities. Dutch consumers are more confident than Italian consumers.

Sub-question 8

Upon applying the concept of flexibility can an organic wine, which is produced under the same regulation in different Member States, still be considered the same product, and if so, does it effect the fairness of the playing field?

In general the strict limitation on the use of chemicals wished by consumers during the public survey was not completely translated into the regulations.

Limits of sulphur dioxide are very close to the ones admitted for conventional wines.

The desk research revealed core issues relating to the quantity of sulphites in the production of organic wines. Due to a factual large variability of socio/cultural and climatic conditions among Member States, the application of the concept of variability to stabilise the production through the years, allows the producers in the use of different quantities of sulphur dioxide.

Until December 2014 there was a mandatory indication to indicate “contains sulphites” on the label. With the entry into force of Reg. (EU) No 1169/2011 it seems that, on the basis of Art. 9(1)(d), it will be mandatory to inform consumers also on the quantity of certain substances, sulphites included.

Based on the information collected during the desk research it will be possible to find on the shelf of a big retailer a similar organic wine, chardonnay for instance, produced in different Member States, containing different quantities of sulphites. Occasionally this difference could be very wide and get over quantities contained in conventional wines too. This could represent an unbalance in regard to the playing field and a cause of concern and incomprehension in regard for consumers.

Sub-question 9

What kinds of policy changes can be advised at national or EU level in order to insure an even more balanced relationship and fairness among stakeholders?

- Introduction of measurable environmental parameters, such as use of renewable resources (water, energy), for all operators of the organic supply chain, processors, distributors and retailers included;
- The fact that great part of survey’s respondent in the two countries investigated are confident that the mass catering is regulated by the European legal framework, should suggest the compulsory inclusion of the sector in the certification/control system. That could avoid confusion among consumers and, eventually a loss in confidence;

- A single control authority, with more responsibilities and freedom to act, seems to react faster to fraudulent behaviour than numerous control body with limited power;
- From the analysis of the data, *ceteris paribus*, there is a correlation between consumer's confidence in the control/enforcement system and the purchase behaviour. The more consumers trust the system the more frequent they purchase organic product. Build strong and effective tools to deal with fraudulent behaviour should improve the economic relevance of the sector.
- The concept of flexibility is an important instrument to guarantee a fair level playing field among countries with wide socio-cultural/climatic differences but it should also guarantee a substantial difference between organic and conventional products. Socially sensitive chemical substances such as sulphur dioxide in wines should be subject of further restriction. Scientific research (varietal choice, new clones, etc.) and appropriate field operations (in the orchard and in the cellar) should be the appropriate way to produce quality organic wines for those countries with more restrictive climatic conditions.

***Synopsis:** Principles are partially implemented in the European organic legal framework, especially along the supply chain. Primary producers are carrying a higher load of responsibilities compared to other actors such as processors or distributors. Few of these principles are translated into measurable parameters, others are ensured through specific production management and other ones are not measured at all and in general consumers are not completely aware of that. Besides the growing importance in both countries and despite the fact that consumers already perceive it as part of the common legal framework, the catering sector is still not regulated in the Netherlands and just locally regulated in Italy. Italian control bodies and Dutch control authority have similar definitions for non-conformities but different ways to deal with them. Consumers in Italy have statistically similar behaviour, knowledge and confidence towards the organic sector. Dutch consumers purchase organic item more frequently and have more confidence on the application and enforcement of the*

common regulations. In both countries consumers think that catering and pet food are guaranteed by European organic regulation.

Organic wines have a lower content of sulphur dioxide than conventional wines but the differences are very small and in certain occasions, related to specific climatic conditions typical of a country, contents are actually the same. This fact can create confusion and loss in credibility among consumers.

Inclusion of sector not yet covered by the regulation should guarantee consumers and increase confidence. Measurable environmental parameters such as carbon footprint or use of water should be part of the regulation and be applied all along the supply chain. A dedicated compulsory national legislation on the enforcement of the organic regulation should be at least harmonised through an European Directive among Member States.

5. Recommendations

The present study covered just few aspects related to the organic sector. More studies are needed, especially in respect to import of organic products from third countries, to assess the effectiveness of the European legal framework.

It would be also useful to assess, in economical terms and in competitiveness, the impact of introducing more measurable environmental parameters along the production chain. It's also important to understand the implication of such a policy towards the final price of an organic item and towards the gain in consumer's confidence.

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7. Annexes

Annex I

Consumer survey Netherlands

1. How often do you buy organic products? (check the chosen box)

Very often	
Often	
Moderately	
Sometimes	
Hardly ever	

2. How well do you know/understand the common regulations that guarantee organic productions in the Netherlands? (check the chosen box)

completely	
very	
Moderately	
Little	
Very Little	

3. Are you able to recognize the organic European logo? (please draw a circle around the chosen logo)



4. Which of these categories are guaranteed by the European organic production and control system? (select as many boxes as wanted)

Organic fruits and vegetables	
Organic cosmetics	
Organic catering	
Organic textiles	
Organic cold cuts	
Organic pet food	

5. how confident are you that regulations and controls are applied and enforced on producers and control authorities? (check the chosen box)

completely	
very	
Moderately	
Little	
Very Little	

6. Which of the following principles are implemented and controlled by national and European authorities? (it's possible to check more than one box)

No GMOs	
Limited use of chemicals	
Reduction of CO ₂ emissions	
Biodiversity	
Animal welfare	
Sustainable production	
Limited use of energy from non renewables sources	

7. How confident are you that the non-conformities of the control authority and producers are detected and eventually punished? (check the chosen box)

completely	
very	
Moderately	
Little	
Very Little	

Annex II Consumer survey Italy

1. Con che frequenza acquista prodotti biologici?

Molto alta	
Alta	
Moderata	
Bassa	
Molto bassa	

2. Con che livello di certezza pensate di conoscere i regolamenti comunitari che garantiscono le produzioni biologiche nel nostro paese?

Molto alta	
Alta	
Moderata	
Bassa	
Nulla	

3. Sa riconoscere il marchio europeo che contraddistingue i prodotti biologici? (Cerchiare il marchio prescelto)



4. Quali tra queste categorie di prodotti è garantita dal sistema di produzione e controllo europeo? (è possibile la risposta multipla)

Prodotti agricoli biologici	
Cosmetici biologici	
Ristorazione biologica	
Tessuti biologici	
Salumi biologici	
Alimenti per animali domestici biologici	

5. Con che livello di confidenza pensate che si applichino i regolamenti e i controlli definiti nei regolamenti europei? (riempire la casella desiderata con x)

Molto alta	
Alta	
Moderata	
Bassa	
Nulla	

6. Quali tra i seguenti principi legati alla produzione biologica, sono implementati e controllati dalle autorità competenti nazionali ed europee?

Assenza di OGM	
Limitato uso di sostanze chimiche	
Riduzione di emissioni di CO ₂	
Biodiversità	
Benessere animale	
Produzione sostenibile	
Uso limitato di energia derivante da combustibili fossili	

7. Con che livello di certezza pensate che vengano rilevate e punite eventuali scorrettezze da parte di enti certificatori e produttori?

Molto alta	
Alta	
Moderata	
Bassa	
Nulla	