

TACKLING THE SALIENT AMENDMENTS IN THE HARMONISATION PROCESS OF ORGANIC FARMING NATIONAL LEGISLATION



Luigi Guarrera
CIHEAM-IAMB

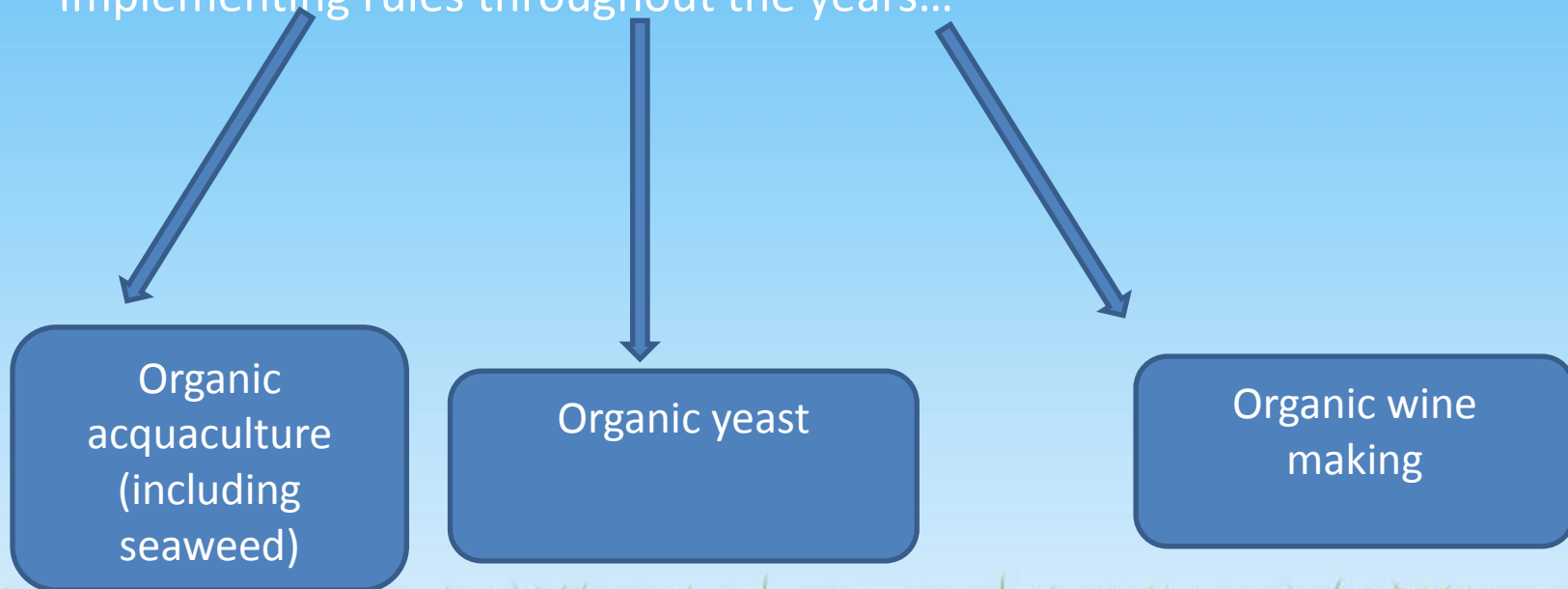


Suggestions on how to proceed in the research of support for organic farming legislation harmonisation....

As you all know, Council Regulation (EC) No 834/20072 and its implementing Regulations (Commission Regulations (EC) No 889/20083 and (EC) No 1235/2008 with subs. amend.) constitute the legal framework on organic food and farming at EU level.

The Regulation 834/07 created the basis for adopting detailed production rules on sectors which were not yet subject to harmonized rules.

Implementing rules throughout the years...



LG/IAMB assistance in harmonisation work and MoAs capacity building undertaken in

Albania

Interreg PAB II – “Management and development of OF in Albania” (2008-2010)

Kosovo

Italian Foreign Ministry - Directorate General for International Development - “Strengthening the Kosovan Agriculture, Forestry and Rural Development Ministry (MAFRD) for the improvement of vegetable production according to EU standards” (2011)

Tunisia

Cooperation Italo-Tunisienne – Update OF legislation and support to reach equivalence with the EU (2008-2010)

TALEX assistance in harmonisation work and MoAs capacity building in Northern Cyprus

The Turkish Cypriot Community is in the process of aligning its agricultural sector policies with those of CAP in preparation for the future reunification of the island, and requested to be supported in the adoption of the EU *acquis*

Request for organic farming:

- Support the preparation of “legal acts” to set up the OF normative framework as well as the development of competences of certifiers and controllers
- Train potential advisers and certifiers specially with regard to the preparation for the implementation of EC Reg. 834/07
- Assist to its development by giving advice to farmers on how to grow organic crops

In fact, the assistance in these 2 and a half years concentrated mainly on the setting up the legislation on organic farming, as there was no law at all drafted on the sector.



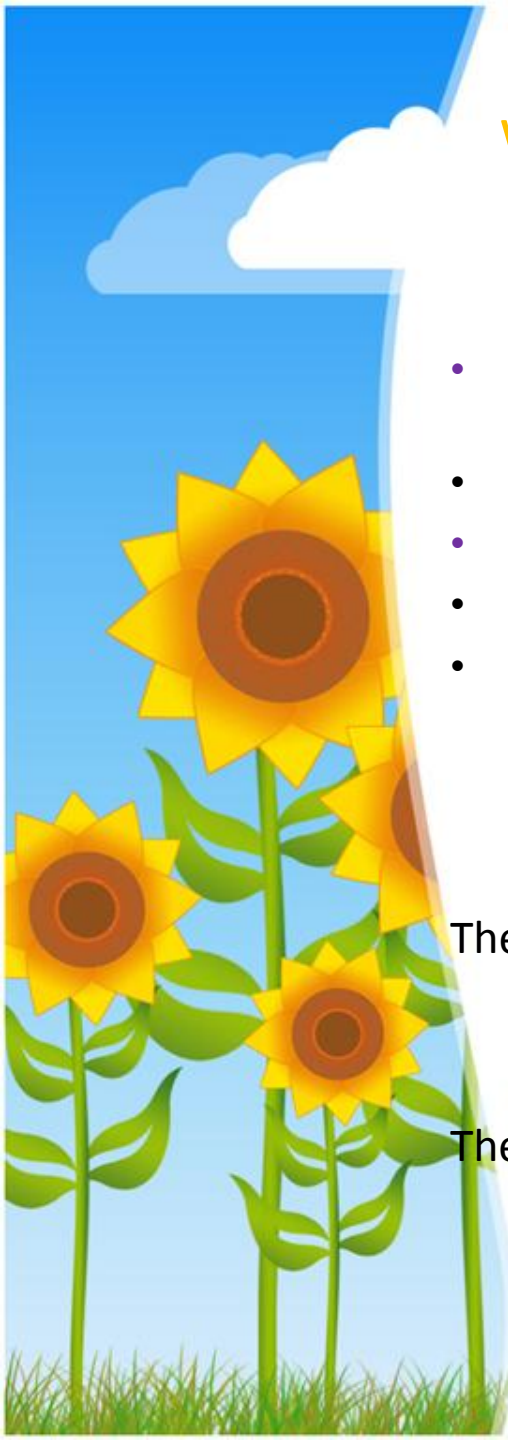


Before explain how did we proceed...

→ INFO about TAIEX

TAIEX is the *Technical Assistance and Information Exchange Instrument* managed by the Directorate-General “Enlargement” of the European Commission.

- TAIEX supports partner countries with regard to the approximation, application and enforcement of EU legislation. The assistance is mainly “demand driven”. It is given in response to requests sent by officials working for the administrations of Beneficiary Countries. The applications for assistance are available online on the TAIEX website. It is possible to ask for “targeted” expertise, to apply for a study visit or to propose the organization of a larger workshop.



Who are the Beneficiaries of TAIEX assistance?

- **Croatia** (new Member State – still benefitting from assistance programmed);
- Iceland, Turkey, former Yugoslav Republic of **Macedonia**;
- **Albania, Bosnia and Herzegovina, Montenegro, Serbia and Kosovo**;
- Turkish Cypriot community in the northern part of Cyprus;
- Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Palestine, Syria, Tunisia, Ukraine and Russia. (ENPI - *European Neighbourhood and Partnership Instrument* countries)

The beneficiaries of TAIEX assistance include those sectors which have a role to play in the beneficiary countries in the transposition, implementation and enforcement of EU legislation.

The ENPI countries are supported in deepening economic and political cooperation.

Who are the TAIEX main target groups?

- Civil servants working in public administrations at national and sub-national level and in associations of local authorities;
- The Judiciary and Law Enforcement authorities;
- Parliaments and civil servants working in Parliaments and Legislative Councils;
- Professional and commercial associations representing social partners, as well as representatives of trade unions and employers' associations;
- Interpreters, revisers and translators of legislative texts.

TAIEX does not provide direct support to civil society, private citizens, or to individual companies.



What services does TAIEX offer?

TAIEX main tasks:

- To provide short term technical assistance and advice on the transposition of EU legislation into the national legislation of beneficiary countries and on the subsequent administration, implementation and enforcement of such legislation.
- To bring ENPI partner countries closer to the European Union, through increased economic integration and a deepening of political cooperation by sharing the experience gained during the enlargement process.
- To provide technical training and peer assistance to partners and stakeholders of the beneficiary countries.
- To be an information broker by gathering and making available information.
- To provide database tools for facilitating and monitoring the approximation progress as well as to identify further technical assistance needs.

... TAIEX services...

- Technical assistance through the TAIEX instrument comes in many different forms and across a wide range of areas. Partner administrations can benefit from TAIEX's flexibility to help meet wider training needs in EU legislation by reaching a significant number of officials.
- Experts and study visits are designed to provide short term assistance to beneficiary countries on the approximation and implementation of EU legislation. Study visits are visits made by a limited number of officials of the beneficiary countries to Member State administrations. They give an opportunity to the beneficiaries to work alongside Member State officials to discuss legislation, experience first-hand administrative procedures and infrastructure and see examples of best practices.
- Expert missions on the other hand involve usually one or two experts travelling to beneficiary partner countries. They provide an opportunity to discuss draft legislation, present examples of best practices and lend assistance where requested. The preferred format is working sessions involving an exchange of knowledge between the beneficiary countries and the experts.





The TAIEX application form...



Now let's go back to the Northern Cyprus experience...

Drafting the legislation on organic farming, starting from EC Reg. 834/07

Preparation of a « correlation table » ...

Interaction with « MoA » - Creation of an *ad hoc* Working Group...

Interaction with an Italian Control Body...

Presence of a small local association of organic producers...

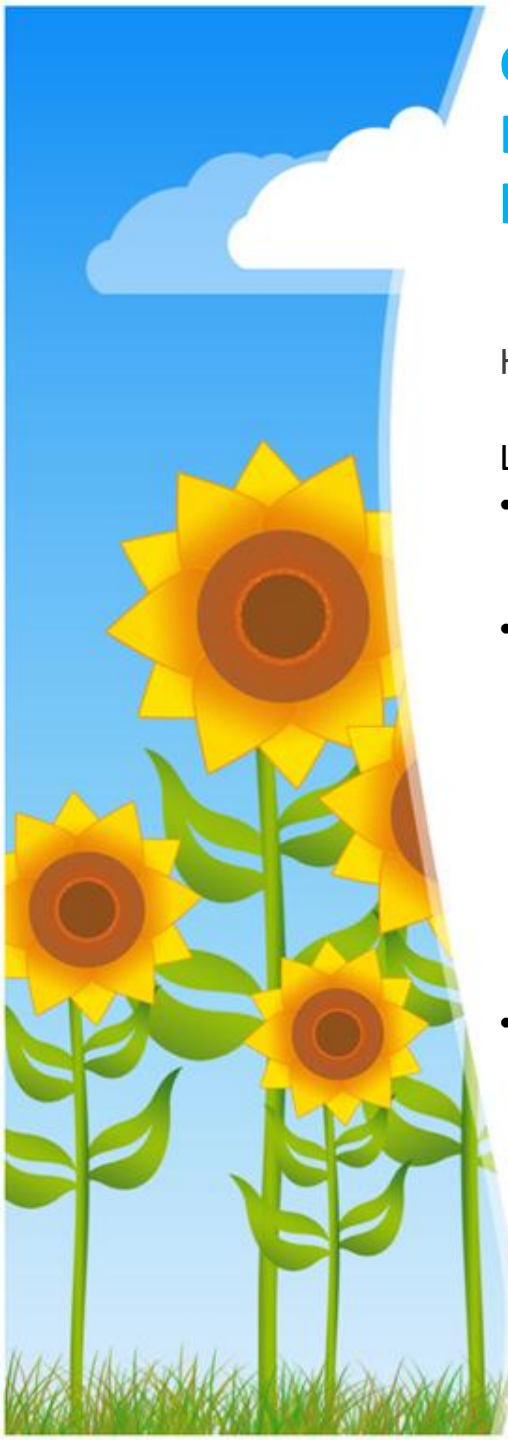
Problems...

The format...



But it is important to underline that there is another format which is used when a legislation (even if not complete) has already been set up: it is the case of my Mipaaf colleagues working in the Republic of Macedonia (Twinning project).

The format used when a national legislation is already in place



CONCEPT NOTE OF A PROJECT ON OF DEVELOPMENT IN THE BALKAN REGION /PRIORITY I, Legislation harmonisation

How is the situation of harmonisation in the SEE Countries?

Let's start from the Countries already member of the EU.

- **Bulgaria** is member since 2007, and the legislation has been fully implemented. But some problems remain, especially concerning import from Third Countries...
- **Croatia** is a very recent member and, for this reason, organic farming legislation has to be implemented. Several control bodies were recognised as competent to carry out controls and issue certificates in Croatia for the purpose of equivalence and listed in Annex IV of Regulation (EC) 1235/2008. Following the accession of the Republic of Croatia to the European Union on 1 July 2013, the Annex IV has been adapted and the rows relating to Croatia have been deleted by reason of accession. These amendments take part of the technical adaptation package within the Commission and Council acts, published in the Official Journal of the EU (JO L 158, 10.6.2013, p. 1)
- Several countries have a complete national legislation (**Albania** –Action Plan??-, **Republik of Srpska, Macedonia** –almost- and **Serbia**), **Montenegro** has drafted a text that has not yet been approved by its Parliament, while legislation is still lacking in **Bosnia Herzegovina** and **Kosovo**.



In the process of harmonisation...

... from your proposal , the problematic areas for the Balkan institutions appear to be:

- The trade of organic products (*mainly among your Countries, I guess*)
- Problems about Control Bodies: their accreditation, relations with the Ministries of Agriculture, their interaction with national legislation
- Interaction with other Competent Authorities
- The availability of organic seeds
- Lack of assistance



Let's briefly analyze some of these points, starting from the last one:

LACK OF ASSISTANCE → answered with the presentation of the TAIEX instrument ...

TRADE OF ORGANIC PRODUCTS - IMPORT & EXPORT RULES

Import

Today, there are three different systems for importing organic products into the EU:

1. Equivalent Third Countries

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 (**this is the meaning of “equivalence”, Titles III, IV and V of Regulation (EC) N° 834/2007 and associated implementing rules contained in Regulation (EC) N° 889/2008**).

Today some products 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 recognized control bodies in that country.



How can a Country be recognized as equivalent by the Commission?

- The recognition process is initiated by an official application lodged by the national authorities to the Commission. It includes the detailed assessment of the third country's organic standard and control system to determine whether they are equivalent to the ones of the EU. This assessment requires significant resources. Minor differences may be accepted, but too divergent rules may impose restrictions on the imports. Control measures must be proved to be as effective as inside the EU.
- The Commission then carries out on-the-spot examinations and will review the list of recognized third countries regularly.
- Once the initial assessment has been successfully finalized, this list of third countries offers –it is the EC opinion- the most stable and reliable approach to organic imports, and also contributes to stimulate developing countries to engage in setting up their own rules and control system. The EC would even like to promote the equivalence concept at world level!
- However, the time needed for the assessments performed so far shows that this task is complex and requires highly technical expertise.
- In any case, imports from third countries whose equivalence has not been recognized yet are not affected , because they can take place via import authorizations granted by the Member States and are also possible via the recognition of control bodies and control authorities in third countries, as described in the next slide...

2. Control Bodies recognized for the purpose of equivalence

- 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 and subs.. This system came into force on 1 July 2012 and facilitates the import of organic products from these countries.
- The Commission considers that the list of control authorities and control bodies could also offer a reliable approach to imports, provided adequate supervision is ensured to guarantee the correct functioning of the regime. In particular, whereas Member States competent authorities are responsible for the controls on all imported organic products from their release for free circulation in the EU territory, it will become essential that the Commission reacts in a timely manner to possible deficiencies in the functioning of a listed control body and withdraws it from the list if the requirements are no longer met.



3. Countries and categories of products not covered by 1 or 2

For countries and products that are not deemed equivalent and for which there are no recognized Control Bodies, an Import Authorization needs to be issued by the Ministry of Agriculture of the EU Member State importing the products. This system for import is a transitional measure aimed at facilitating the transition from previously existing system.





4. A fourth system not yet activated: imports under the compliance regime

Under the compliance regime a non-EU operator has to fulfil all the requirements of EU legislation, including all detailed production rules and labelling. In contrast to the Equivalence regime, the rules followed must be identical, and not merely equivalent, to the ones applicable in the EU. The operator must be subject to controls by a control body or a control authority recognised for the purpose of compliance by the Commission.

The compliance regime has not been activated yet. The Commission fixed the deadline for the receipt of first applications from control authorities and control bodies at **31 October 2014**, thus giving time to the equivalence regime to develop.

Based on the experience gained so far, it is doubtful that the compliance regime will provide for better access to the EU market and will bring additional benefit to the EU's trading partners compared to what is already provided by the equivalence regime. It will neither bring significant benefit for the consumers regarding the corresponding imported organic products, which cannot be distinguished on the market. Moreover, the system creates an Additional administrative workload comparable to the equivalence system without any additional benefit.

The Commission therefore prefers concentrating its efforts on equivalence rather than on Compliance, whose usefulness and efficiency need to be reconsidered together with trading partners, in the light of current and future organic trade activities.



EXPORT

To export organic products outside the EU as organic, the products must comply with the national organic standards of the country of destination. Equivalency agreements greatly facilitate the export of organic products from the EU. Agreements exist with the main organic importers, including the United States, Canada and Japan.

The import and export systems are governed by Implementing Regulation (EC) No 1235/2008.



Problems related to Control Bodies

The term Control Body (CB) used in the sector of OF covers any independent body certifying organic production in the European Union which has been delegated these control tasks by a Member State in accordance Article 27 of Regulation (EC) No. 834/2007 and any independent body which certifies organic production for the purpose of equivalence in third countries in accordance with Article 33 (3) of that Regulation.

1. Review and finalized Regional strategy for formulation, implementation, monitoring and evaluation of national organic production and labelling of organic products policies and legislation (1-5 years Action Plan)
2. Technical assistance to Balkan countries in the formulation/ revision/ updating of organic agriculture laws and regulations prepare Transposition calendar (technical assistance for the revision of Organic Law and legislation)
3. Technical assistance to develop a network of national bodies responsible for accreditation and all accredited at the same European level

- To activate the REA group members on the three specific activities
- Specific provisions to be included in the national legislations to enable the recognition of national organic certificates following the EC 834/07 framework regulation
- SEE strategy developed through prior clarification of the national needs