

LEGAL ASPECTS REGARDING ORGANIC AGRICULTURE

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Abstract: *Ecological agriculture is an agricultural method that aims to produce food by using natural substances and processes. The legal rules governing organic farming provide for and encourage a high standard of animal welfare and require farmers to respond to their specific behavioral needs. The legal regulations regarding organic agriculture aim to provide a clear structure for the production of organic products across the entire territory of the European Union. They are designed to respond to consumers demand for organic products they can trust and, at the same time, to ensure a fair market for producers, distributors, and retailers.*

Key words - legal regulations, organic agriculture, organic products

INTRODUCTION

Organic farming is a term that defines a system of agriculture other than the traditional one or the one used today and is similar to the terms organic or biological agriculture. The essential role of the organic farming system is to produce food that is cleaner and more suitable for human metabolism. One of the main purposes of organic agriculture is the production of fresh, authentic, clean food and agri-food products that are in accordance with nature, environmental factors and consumer safety.

The term "organic farming" is a term protected and assigned by the EU to Romania for the definition of this agricultural system and is similar to the terms "organic agriculture" or "biological agriculture" used in other Member States [10].

Organic farming is agriculture that follows practices aimed at minimizing human impact on the environment, while ensuring the natural functioning of the agricultural system [11].

Organic farming is agriculture that follows practices aimed at minimizing the human impact on the environment, while ensuring the natural functioning of the agricultural system. This is a way to produce foods that are more environmentally friendly using methods that are as sustainable as possible. Such practices may include: Wide crop rotation; very strict limits on the use of synthetic chemical pesticides and synthetic fertilizers; prohibition of the use of genetically modified organisms; the choice of disease-resistant and locally adapted plant and animal species; raising animals outdoors, in the free-range system and providing them with organic feed [11].

MATERIALS AND METHODS

The materials used to write this work consist of normative acts and web pages. The methods used are legal, namely the formal method, the comparative method, the logical method and the analytical method. The use of these methods had the role of carrying out a systematic analysis of the information from the studied sources in order to elaborate the points of view, the results of the research carried out and the conclusions.

RESEARCH RESULTS

Organic farming is a system of agricultural production that is based on the use of natural processes and resources, respecting certain strict rules and principles, in accordance with national and international standards. Its goal is to get healthier and more nutritious foods while minimizing its impact on the environment. It protects soil fertility and

prevents the spread of pests. The link between ecology and agriculture emerged in the 20th century as a result of the widespread use of pesticides and fertilizers, associated by researchers with various human diseases. Today, organic farming is based on good agricultural practices of the past, technological innovations and modern human knowledge. The objectives of organic agriculture are: responsible use of natural resources and energy; protecting animals and maintaining biodiversity; conservation of the regional ecological balance; improving soil fertility and water quality; production of quality food in sufficient quantities to ensure the health of consumers and avoid environmental pollution and contamination of products [12].

Organic farming has gained more and more ground among Romanian farmers and consumers. The diverse climate conditions and the country's biodiversity offer huge potential for the development of organic agriculture. However, in order to obtain specific certification, farmers must comply with strict rules on agricultural practices and natural resource management applicable throughout the EU [13].

Organic farming has the mission of creating a balance between industry and nature's biodiversity. For this reason, food production is carried out following a number of strict rules. Organic farming practices: 1. at the production stage, farms do not use genetically modified organisms or their derivatives, synthetic fertilizers and pesticides, growth stimulators, hormones, antibiotics; 2. at the processing stage, do not use: food additives and complementary or synthetic chemicals [14].

The key principles of organic farming are respect for living ecosystems and animal welfare, maintaining biodiversity and preserving soil fertility; prohibition of chemical pesticides and genetically modified organisms and responsible management of natural resources [15].

From 1 January 2022, Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 is the applicable legislative act, also known as the basic act. It lays down rules on organic production and labeling of organic products and repeals and replaces Council Regulation (EC) No 834/2007 of 28 June 2007. The new Regulation provides for transitional periods for the implementation of certain new provisions, in particular with regard to trade. See Section 2 of Chapter IX of Regulation (EU) 2018/848, for the provisions of previous Council Regulation (EC) No 834/2007 and Commission Regulation (EC) No 889/2008 which may apply for a limited period. In 2023, another legislative act laying down specific labeling requirements for petfood produced in accordance with the rules laid down in Regulation (EU) 2018/848: Regulation (EU) 2023/2419 of 18 October 2023 on the labeling of organic petfood (OJ L, 2023/2419, 27.10.2023) was published. Pursuant to Regulation (EU) 2018/848, the Commission shall also adopt other detailed secondary legal acts. The types of secondary legal acts are as follows: delegated acts, also known as Commission Delegated Regulations, which are acts of general application designed to supplement (the 'Commission Delegated Regulation supplementing') or amend (the 'amending Commission Delegated Regulation') certain non-essential elements (in the sense of complementarity) of the legislative act; Implementing acts, also known as Commission Implementing Regulations, which are used where uniform conditions of implementation are required. Delegated acts amending the basic act are gradually incorporated into and become part of the so-called "consolidated" text of the legislative act [16].

The normative acts that regulate at national level the activity of organic agriculture are:

1. Emergency Ordinance 34/2000 on organic products as amended:

2001 - Law 38/2001 for the approval of Government Emergency Ordinance no. 34/2000 on organic agri-food products Art. 1

2006 - Emergency Ordinance 62/2006 amending and supplementing the Government Emergency Ordinance no. 34/2000 on organic agri-food products, art. I, point 9, art. I, point 8, art. I, point 7, art. I, point 6, art. I, point 10, art. I, point 5, art. I, point 1, art. I, point 2, art. I, point 3, art. I, point 14, art. I, point 4, art. I, point 13, art. I, point 12, art. I, point 11, art. I, point 15; Order no. 317/2006 regarding the amendment and completion of the Annex to the order of the Minister of Agriculture, Food and forests and of the President of the National Authority for Consumer Protection no. 417/110/2002 for the approval of the specific rules on the labeling of organic agri-food products

2007 - Emergency Ordinance 62/2006 Art. II, point 1; Law 513/2006 on the approval of Government Emergency Ordinance no. 62/2006 for the amendment and completion of Government Emergency Ordinance no. 34/2000 on organic agri-food products Art. 1, point 2, art. 1, point 1, art. 1, point 3, art. 1, point 4

2014 - Ordinance 29/2014 amending Article 6 paragraph (2) of the Government Emergency Ordinance no. 34/2000 on organic agri-food products, as well as for establishing measures in the field of organic agri-food products Art. III, art. I

2016 - Ordinance 5/2016 for the completion of Government Emergency Ordinance no. 34/2000 on organic agri-food products

2017 - Law 262/2017 for the completion of Article 8 of the Government Emergency Ordinance no. 34/2000 on organic agri-food products

2019 - Legea 352/2018 Art. I, point 9, Art. I, point 3, Art. I, point 4, Art. I, point 8, Art. I, point 7, Art. I, point 6, Art. I, point 5, Art. I, point 1, Art. I, point 2; Ordinance 3/2019 Art. I, point 1, Art. I, point 2; Ordinance 7/2019 Art. I, point 3, Art. I, point 4, Art. I, point 5, Art. I, point 1, Art. I, point 2

2021 - Law 305/2021 on the approval of Government Ordinance no. 7/2019 amending Government Emergency Ordinance no. 34/2000 on organic agri-food products

2022 - Ordinance 10/2021 Art. I, point 9, Art. I, point 8, Art. I, point 7, Art. I, point 6, Art. I, point 10, Art. I, point 5, Art. I, point 1, Art. I, point 2, Art. I, point 3, Art. I, point 14, Art. I, point 4, Art. I, point 13, Art. I, point 12, Art. I, point 11, Art. I, point 17, Art. I, point 18, Art. I, point 15, Art. I, point 16; Law 155/2022 on the approval of Government Ordinance no. 10/2021 amending and supplementing Government Emergency Ordinance no. 34/2000 on organic agri-food products Art. 1

2. Law 155/2022 on the approval of Government Ordinance no. 10/2021 amending and supplementing Government Emergency Ordinance no. 34/2000 on organic agri-food products

3. Order 417/2002 approving the specific rules on the labeling of organic agri-food products

4. Order 312/2021 on the organization of the control and certification system, approval of the control bodies and supervision of their activity in organic agriculture with subsequent amendments:

2022 - 2022 corrigendum to Article 17 paragraph (1) letter c) of the order of the Minister of Agriculture and Rural Development no. 312/2021 on the organization of the control and certification system, approving the control bodies and supervising their activity in organic agriculture

2024 - Order 45/2024 amending order of the Minister of Agriculture and Rural Development no. 312/2021 on the organization of the control and certification system, approving the control bodies and supervising their activity in organic agriculture

5. Decision no. 1579/2022 on the establishment of contraventions and the application of sanctions in the organic agriculture sector

7. Order 71/2023 establishing the national database on the establishment of a list of organic and in-conversion plant reproductive material and/or seed potatoes, organic animals and birds and young organic aquaculture animals intended for trade

8. Order 29/2024 for the approval of national rules on the import of organic products and in-conversion products from third countries, on the territory of Romania.

Organic production is a global system of agricultural management and food production combining best environmental and climate action practices, a high level of biodiversity, conservation of natural resources and the application of high animal welfare standards and high production standards that meet the requirements of more and more consumers, who want products obtained using natural substances and processes. Organic production thus plays a double social role, because on the one hand it feeds a specific market that responds to consumers' demand for organic products, and on the other hand it provides publicly available goods that contribute to environmental protection and animal welfare, as well as to rural development. Compliance with high standards of animal health, environment and welfare in the production of organic products is an intrinsic part of the high quality of those products [9].

Organic production aims to achieve sustainable, diversified and balanced agricultural systems that ensure the protection of natural resources and consumer health, since genetically modified organisms and their derivatives are not allowed in organic production. The rules on organic production in Romania are laid down in accordance with the rules laid down in Article 9-29 of Regulation (EU) 2018/848 on organic production and labeling of organic products of the European Parliament and of the Council [3].

The labeling of organic agri-food products, in order to be classified as such, must meet certain conditions [4]. These conditions are different depending on the category of products in which they are registered. Thus we have:

1. unprocessed primary plant products and unprocessed animal products - these indications clearly show that this is a method of agricultural production; The product is obtained in accordance with the organic production rules established in Articles 4 and 5 of GEO no. 34/2000 and in Article 2-4 of the Methodological norms for the application of the provisions of Government Emergency Ordinance no. 34/2000 on organic agri-food products, approved by Government Decision no. 917/2001, or is imported from a third country and subject to the same provisions; The product is obtained or imported by an operator which is controlled by an inspection and certification body in accordance with the provisions of Articles 7 and 8 of GEO no. 34/2000 as amended; labeling shall include the name and/or code of the inspection and certification body to which the operator is registered.

2. processed plant and animal products intended for human consumption, preparations of one or more ingredients of plant and/or animal origin - at least 95% of the ingredients of agricultural origin of the product are produced or come from products obtained in accordance with the organic production rules laid down in Articles 4 and 5 of OUG No 34/2000 and in Article 2-4 of the Methodological norms approved by Government Decision no. 917/2001 or are imported and are subject to the same provisions; all ingredients of agricultural origin of the product are included in item 3. III of Annex 3 to the Methodological norms approved by Government Decision No 917/2001 or have been provisionally authorized by a Member State; the product contains only the substances referred to in point (a). I of Annex no. 3 to the methodological norms approved by Government Decision no. 917/2001, as ingredients of non-agricultural origin; the product or its ingredients are not subject to treatments involving the use of ionizing radiation; the product is prepared or imported by an operator which is controlled by an inspection and certification body; labeling shall include the name and/or code of the inspection and

certification body which carried out the last inspection of the operator; the product is obtained without the use of genetically modified organisms and/or products derived from such organisms; the indications concerning organic production must clearly state that they relate to a mode of agricultural production and must be accompanied by a reference to the ingredients of those agricultural origin, provided that this entry is not included in the list of ingredients. Ingredients of agricultural origin are used only if ingredients obtained under the organic farming rules are not produced in sufficient quantities in the European Union and can be imported from third countries.

On the label and advertising of an organic product, the 'ae' logo specific to controlled organic products shall be affixed. This logo is used for the purpose of certification and identification of organic agri-food products and guarantees that the agri-food products that bear it meet the following conditions: they come from organic agriculture in Romania and are marketed in accordance with the legislation in force; they are certified by an inspection and certification body accredited by the Ministry of Agriculture, forests and Rural Development and come from import and are certified in Romania by an inspection and certification body accredited by the Ministry of Agriculture, forests and Rural Development [5].

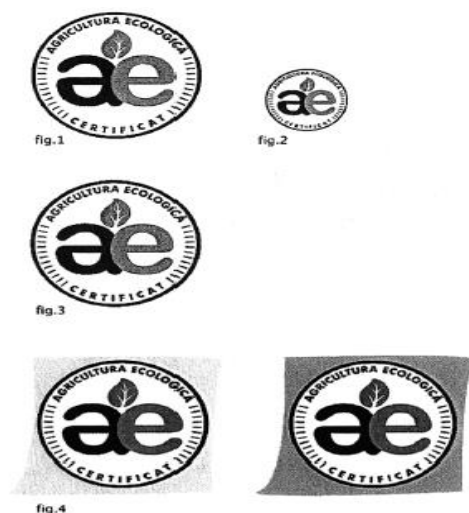


Figure 1. Logotype "ae" for the purpose of certification of identification of products from organic agriculture

Source: Order 317/2006

The European Union logo for organic production must comply with the following model:



Figure 2. The E.U. logo for organic production

Source: Regulation 848/30-May-2018 regarding organic production and labeling of organic products, ANNEX V

To comply with the legislative provisions, Order 312/2021 establishes the control bodies delegated by the Ministry of Agriculture and Rural Development to verify the development of organic agriculture. Thus, any operator or group of operators producing, preparing, distributing, or storing organic or in-conversion products, importing such products from a third country exporting such products to a third country, or placing such products on the market is required to submit its activity to the control system and certification; they must notify their activity, annually, to the county agricultural directorates.

The official control duties and other official activities delegated to control bodies by the Ministry of Agriculture and Rural Development are as follows: control and certification of organic products, issuing decisions and certificates to operators and groups of operators, and granting derogations for plant reproductive material not obtained from organic production [6].

Operators may use plant reproductive material not obtained from organic production in Romania, to the extent that users of such material can demonstrate that they have not been able to obtain from the national or European market a reproductive material that meets the requirements of organic production methods, only based on an authorization issued by the control bodies approved by the Ministry of Agriculture and Rural Development [2].

To use the reproductive material of organic plants, Order 71/2023 The Ministry of Agriculture and Rural Development establishes rules for the establishment of a national database on the establishment of a list of organic and in-conversion plant reproductive material, and/or seed potatoes, organic animals and birds and young aquaculture animals intended for trade. This normative act establishes the database on the availability on the market of organic and in-conversion plant reproductive material is accessible to the public on the website www.madr.ro in the section allocated to agriculture ecological and contains centralized information at the national level. Suppliers of organic and in-conversion plant breeding material, suppliers of organic animals and birds, and suppliers of young organic aquaculture animals must register with the county agricultural directorates mentioning all existing work points/deposits, mandatory, by completing and submitting/transmitting all the documents related to the performance of this activity, documents stipulated in art. 3, art.4 and art. 5 Order 71/2023 [7].

The national legal framework regarding the official control of organic and in-conversion products from third countries upon their introduction in Romania through the use of the TRACES.NT electronic system is established by Order 29/2024 Approving the national rules on the import of organic products and in-conversion products from third countries on the territory of Romania. The responsibility for the implementation of the provisions of this normative act belongs to the Ministry of Agriculture and Rural Development and the National Sanitary Veterinary and Food Safety Agency. Where consignments of organic products and in-conversion products from third countries are introduced into the European Union through Romania, batch verification, and, the inspection certificates and the extracts of the inspection certificate shall be covered by the inspectors of the border inspection/inspection posts or the release points for free circulation. If these products are introduced into the European Union through the entry points/point of release for free circulation located on the territory of another member state, these shall be checked by the designated inspectors of the veterinary directorates and for the safety of county food, which shall cover the inspection certificates or the extracts of the inspection certificates, or, where consignments of organic products and in-conversion products are to be subjected to distributions in consignments or are removed from one of the special customs procedures under which they have been placed [8].

The afore mentioned normative act also establishes the specific duties of the responsible authorities and the obligations of importers of organic products and products in conversion.

The institutional framework for establishing contraventions and applying sanctions in the organic agriculture sector is created by Decision 1579/2022 on establishing contraventions and applying sanctions in the organic agriculture sector [1]. Constitutes the following facts of the operators or groups of operators producing, preparing, distributing, storing, storing, importing from a third country or exporting organic products to a third country or placing such products on the market, if they have not been committed under such conditions that, according to the law, they, to be considered crimes:

- ▶ the non-rightful use of the terms "environmental", "biological", "and organic", of the derived words and their diminutive terms, such as "bio" and "eco", alone or in combination, on the label, "eco", alone or in combination, on advertising materials, in the electronic medium or the commercial documents of a product, including terms used in trademarks or company names or practices, if it could mislead the consumer or the user by suggesting the ecological nature of the product, it is sanctioned with the fine from 20000 lei to 50000 lei

- ▶ failure by operators or groups of operators to comply with the rules on production, preparation, distribution, storage, import, export, export, etc, the placing on the market of organic products or in conversion is sanctioned with a fine from 10000 lei to 50000 lei

- ▶ lack of documents/registers that operators keep/groups of operators on the activities carried out or not updating them in order to ensure the traceability of products are sanctioned with a fine from 10000 lei to 20000 lei

- ▶ carrying out marketing, distribution, import, import activities, export of organic products or in conversion by economic operators who have not registered their activity at county agricultural directorates is sanctioned with a fine from 20000 lei to 50000 lei

- ▶ carrying out the activities in question without holding a certificate, or if the certificate was suspended or withdrawn is sanctioned with a fine from 20000 lei to 50000 lei

- ▶ marketing of organic products outside the territory of Romania, by the operators who did not obtain the transaction certificate issued by the control bodies to which official activities were delegated, the fine shall be sanctioned from 10000 lei to 20000 lei

- ▶ placing on the market, distribution, export, and use in organic production of organic or in conversion products for which the control body has ordered a provisional prohibition measure and/or a measure of suspension/withdrawal of certification is sanctioned with a fine from 10000 lei to 20000 lei

- ▶ non-compliance with immediate communication to the control body of suspicion of proven or non-compliance that cannot be excluded is sanctioned with a fine from 5000 lei to 20000 lei

- ▶ non-compliance with the cooperation with the control body in the framework of verification and identification of grounds for non-compliance is sanctioned with a fine from 5000 lei to 20000 lei

- ▶ failure to inform customers about a suspected lack of conformity or a lack of conformity that affects the integrity of organic products is sanctioned with a fine from 5000 lei to 20000 lei

- ▶ non-compliance with the immediate information of the county agricultural directorate on the withdrawal from organic production of a/some products is sanctioned with a fine from 5000 lei to 20000 lei

► failure to ensure the access of representatives of the competent authority from the central or county level to carry out checks in official controls is sanctioned with a fine from 5000 lei to 20000 lei

► non-compliance with the retention of all control reports, certificates, and other documents issued by the control bodies or which were the basis for the issuance of certificates or transaction certificates for at least 5 years, and in case of withdrawal from the organic farming system, keeping all accounting records and documents issued during the period in which they carried out activities in organic agriculture, for 5 years starting with the withdrawal date, the fine is sanctioned from 5000 lei to 20000 lei.

CONCLUSIONS

The legislation in the field of organic agriculture regulates a sector that is in full development and growth, both due to the establishment of clear and stable rules, which, of course, as this field evolves upward, can or will be improved, as well as the trust that consumers have begun to have in organic products. These clear and stable rules allow organic producers to compete openly and fairly.

Legislative regulations in the field establish more modern and uniform rules, both at the level of our country and the level of the entire European Union, taking into account the principle of free movement of goods and encouraging sustainable development.

The rules established by the normative acts in the field aim to guarantee fair competition for farmers and operators, prevent fraud and unfair practices, and improve consumer confidence in organic products

Logo/Emblem and labeling rules are an important part of the legal regulations on organic products. The legislative regulations aim to provide conditions under which the ecological sector can progress under the evolution of production and market. This contributes to improving and strengthening EU-wide standards on organic farming and import/export and inspection requirements.

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