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Issue #10/2013

at the Institute for Economic Research and Policy Consulting

AGRI-FOOD POLICY REVIEW

Legislative framework for effective functioning of the organic market in Ukraine: first steps are made - but more to go

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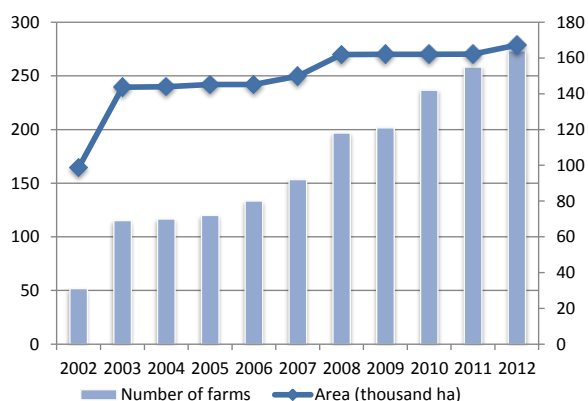
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Though there is a need for legislative framework to regulate the market of organic produce, recently approved Law on organic production is not sufficient to support smooth development of organic market in Ukraine. More clear and transparent procedures should be developed and enforced to enable an effective functioning of the market.

Production of organic cereals emerged in Ukraine back in 90's and was largely driven by the EU demand for organic feed. However, domestic organic market in Ukraine has started to develop dynamically only since 2006-2007. According to the research of Organic Federation of Ukraine¹, it has duplicated almost every year since 2008, reaching EUR 1.2 m in 2009, EUR 2.4 m in 2010, EUR 5.1 m in 2011 and EUR 7.9 m in 2012. Organic production is mostly represented by grains, pulses and oil crops. Only in the last few years, vegetables, fruits, berries as well as and processed products, such as juices, dairy and meat products, etc., appeared on the market.

State Statistics Service of Ukraine does not collect data on organic production since the market is still relatively small. However, according to the data of the International Federation of Organic Agricultural Movements the area under organic farming and number of farmers is growing rapidly in Ukraine (see Figure 1).

Figure 1. Development of the organic farming in Ukraine



Source: own presentation based on the data of International Federation of Organic Agricultural Movements, <http://www.ifoam.org/>

In particular, the area of the land used for organic farming expanded by about 70% since 2002 reaching approximately 280 thousand ha in 2012, which constitutes about 0.7% of total agricultural land in Ukraine. During the same period the number of organic producers has increased by more than 5 times. The majority of organic farms are located in the West and South of Ukraine and represented by areas with different sizes (from few ha to up to ten thousand ha)².

The share of the certified organic produce in total food consumption of Ukraine is still less than 1%. It should be noted, however, that many Ukrainians still have garden plots, where they grow vegetables and fruits for their own consumption. Although these products are not certified, in many cases they can be regarded as "organic" since growers often limit the use of pesticides and chemical fertilizers due to health risk as well as cost saving. Thus, real consumption of organically produced food in Ukraine is likely to be underestimated.

It should be noted that organic market is largely determined by consumer demand and regulated via voluntary certification of organic products to provide the confidence for consumers that organic producers meet production standards they claim. Indeed, government interference should be limited to the protection of consumers from deceptive organic products. Hence, the legislative framework to regulate the market is needed, but overregulation should be avoided.

First attempts to introduce the Law on organic production in Ukraine are dated back to 2010, when the first draft Law was prepared. The Law "On the production and turnover of organic agricultural products and raw materials" #425-VII (with amendments of the President) was approved by the Parliament on the 3rd of September, 2013, and signed by the President one month later. The Law defines legal, economic and organizational basis for production, processing, transportation, storage, certification and labelling of organic produce and raw materials. It was published on 9th of October and would come into force in three months.

¹ <http://www.organic.com.ua/uk/homepage/2010-01-26-13-42-29>

² the same

One of the most important advantages of the Law is introduction of a clear definition for organic products. The Law ensures that only holders of compliance certificate could sell and label their produce as "organic product". The certificate is issued only if agricultural products are produced in compliance with all requirements listed in the Law and organic components constitute at least 95% of all ingredients. Clear and strict labelling procedures are expected to result in higher trust to "organic product" label. This will also protect organic food producers from unfair competition of those, who use the labels "eco", "bio", "organic", but do not meet legal standards.

Although the Law establishes basic legal framework for the development of the domestic organic market, it still has a number of important limitations. First of all, the process of certification itself and distribution of functions between different bodies are not clear enough. In particular, both terms of 'authorized certification body' and 'conformity assessment body' are used in the text but responsibilities of the former are not described at all. Secondly, procedures envisioned in the Law are quite complex, create additional transaction costs for producers and opens opportunities for corruption. Some market players argue that it was simpler to operate before introduction of the Law, as new rules commit organic producers to obtain approvals from even three state institutions to start operations at the organic market.

According to the Organic Standard³, a number of provisions in the Law are not harmonized with international practice, particularly, identification of zones suitable for organic production. Unfortunately, EU standards could not be approved by Ukrainian Government because of significantly different legislative frameworks in the EU and Ukraine. Hence, so far double certification is unavoidable. However step by step harmonisation of requirements for organic production in Ukraine with international standards would help to reduce transaction costs⁴ as well as ease the access of Ukrainian organic products to international markets.

³ <http://www.organicstandard.com.ua/>

⁴ If organic production requirements (determined by the Law#425-VII) will be almost identical to international standards, it will be easier and cheaper to producers to adapt to both international and Ukrainian certification.

Finally, a very short adaptation period is envisioned in the above described Law. It will become effective as of 9th of January, 2014, whereas three months might not be enough to develop all necessary by-laws and establish required administrative procedures. Then, organic farmers will have six months to get their produce certified according to new standards, which might be problematic if all procedures would not be functioning smoothly by that time.

In conclusion, first steps to regulate the market of organic produce were made with introduction of the Law #425-VII. However, certain amendments of the Law should be made to ensure that certification procedures are as clear as possible and requirements are as much as possible harmonised with international standards so that transaction costs for producers are minimised.