

## Case Notes

# THE LEGAL FOUNDATIONS OF ORGANIC AGRICULTURE AS A MEANS OF SECURITY OF PUBLIC HEALTH

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## ABSTRACT

**Background:** *The decisive role in the process of organic agriculture and organic food production belongs to legal regulation. This article sets out the relevance of the study of the issues of legal provision of organic agriculture as a means of maintaining public health, both nationally and internationally. Having this in mind, the aim of the article is to find ways to solve medical and legal problems of public health by forming an effective legal mechanism for organic agriculture at both national and international levels.*

**Methods:** *The methodological basis for the study of legal support of organic agriculture are general and special methods of scientific knowledge: dialectical, analysis and synthesis, synergism, historical and legal, formal-logical, system-structural, comparative-legal, formal-legal, and statistical. The empirical materials for the article were theoretical developments of representatives of legal and economic science, international legal acts (the 2030 Agenda for Sustainable Development, United Nations, Codex Alimentarius), legislation of Ukraine (Law of Ukraine 'On basic principles and requirements for organic production, circulation and labelling of organic products' (2018)), acts from the UN (Commission Regulation (EC) 889/2008 with provisions on the implementation of Council Regulation (EU) No. 834/2007 on organic production, labeling of organic products and control, Council Regulation (EC) No. 834/2007 of 28 June 2007 on organic production and labeling of organic products), acts from the USA (Organic Foods Production Act, OFPA (1990)), and documentation from other states that regulate public relations in the field of legal support of organic agriculture and analyse UN, WHO, FAO, and IFOAM Statistics.*

**Results and Conclusions:** *The need to address medical and legal issues of public health requires a joint effort of the world community in the development and creation of unified legal foundations for organic production and universal standards for organic agricultural products, as well as the introduction of an effective international legal mechanism for legal support of organic agriculture, stimulating its development and promoting a healthy lifestyle and organic foods.*

## 1 INTRODUCTION

The preservation of human health and the possibility of exercising one's natural right to life are directly related to the quality and safety of food. Currently, there is a global trend toward increasing demand for organic products of plant and animal origin, which, in turn, encourages agricultural producers around the world to switch to organic agriculture. Conducting this alternative form of agricultural production is a means of ensuring public health, and its development largely depends on the perfection of legal support.

Eliminating hunger, improving nutrition, ensuring that everyone has access to safe and nutritious food, promoting sustainable agriculture, maintaining a healthy lifestyle, and promoting well-being for everyone of all ages are landmarks enshrined in Sustainable Development Goals (SDGs) in the final document of the UN 'Transforming our world: The 2030 Agenda for Sustainable Development'.<sup>4</sup>

Meanwhile, the negative consequences of intensive industrial production with the active use of pesticides, agrochemistry, antibiotics, growth stimulants, and hormones are not only environmental pollution and reduced soil fertility and biodiversity but also deteriorating health and the spread of allergies, cancer, and cardiovascular and other diseases observed in recent

4 United Nations Sustainable Development Goals (SDGs) 'Transforming our world: The 2030 Agenda for Sustainable Development' (Santiago: Printed at United Nations 2018) 19-23.

decades. According to the WHO, the most common causes of death in the world in 2020 were cardiovascular disease (coronary heart disease, stroke), chronic obstructive pulmonary disease, respiratory infections of the lower respiratory tract, diarrhoea, tuberculosis, HIV/AIDS, cancer, etc.<sup>5</sup> The extreme prevalence of allergic diseases (up to 40% of the population) has prompted the international medical community to join the World Allergy Organization (WAO), develop the WAO White Paper on Allergies, and take systematic action to prevent and treat the disease.<sup>6</sup>

According to IFOAM, the use of pesticides in the cultivation of crop products is associated with a number of human health problems – from short-term consequences (headache, nausea) to chronic diseases and cognitive impairment during pregnancy – in addition to environmental damage. Additionally, low standards of keeping animals in the global livestock sector lead to the systematic and excessive use of antibiotics in veterinary medicine, which, in turn, reduces their ability to treat life-threatening human infections and promotes the emergence of antibiotic-resistant microorganisms.<sup>7</sup>

The problem of healthy eating has become even more acute due to the unprecedented events caused by the COVID-19 pandemic when issues of maintaining health and strengthening the human immune system (due to the lack of specific vaccines and drugs) came to the fore. This reiterated the need to ensure the sustainable development of the agricultural sector, the transition to a 'green economy', and alternative forms of agricultural production, in particular through organic farming. Thus, the European Agricultural Fund for Rural Development program during the pandemic provides for increased funding to support farmers and rural areas to 90 billion euros in the relevant structural changes needed to achieve these goals.<sup>8</sup>

Of course, the decisive role in the process of organic agriculture and organic food production belongs to legal regulation. This article sets out the relevance of the study of the issues of legal provision of organic agriculture as a means of maintaining public health, both nationally and internationally.

## 2 ORGANIC AGRICULTURE AS AN ALTERNATIVE FORM OF AGRICULTURAL PRODUCTION

Organic agriculture as an alternative form of agricultural production is one of the unconditional modern world trends and is a form of practical implementation of sustainable agriculture policy, as it combines three components: economic efficiency (increasing the competitiveness of agricultural products), environmental orientation (restoration of agroecosystems), and environmental protection and social effect (providing consumers with safe and high-quality food, etc.). Organic farming has a number of environmental, social, and economic benefits, as it saves natural and energy resources while minimising the negative impact of agricultural activities on the environment, and organic nutrition is a guarantee of maintaining public health, increasing life expectancy, and improving the quality of life. Consumption of organic products at a higher level provides the physiological needs of humans for vitamins, trace elements, and nutrients. According to experts, organic products are more useful than their conventional counterparts (for example, in organic milk,

5 World Health Organization 'Top 10 Causes of Death' <<https://www.who.int/news-room/fact-sheets/detail/the-top-10-causes-of-death>> accessed 11 April 2022.

6 World Allergy Organization, 'The official website of the WAO' <<https://www.worldallergy.org/>> accessed 11 April 2022.

7 IFOAM, 'Health' <<https://www.ifoam.bio/our-work/what/health>> accessed 11 April 2022.

8 'Are European governments pushing for a green recovery?' <<https://think.ing.com/articles/are-european-governments-pushing-for-a-green-recovery>> accessed 11 April 2022.

there are 70% more vitamins, and in organic products, there are 18-19% more antioxidants and polyunsaturated fatty acids and 50% less heavy metals). In addition, organic farms generate 30% less greenhouse gas emissions than conventional farms and therefore pollute the atmosphere and the environment less,<sup>9</sup> which also has a positive impact on human health and is so important for the current and subsequent generations. Such products do not contain GMOs, preservatives, artificial dyes, pesticide residues, and other substances harmful to human health.

In general, the concept of alternative agricultural production based on compliance with environmental imperatives is currently opposed to traditional agricultural production and is seen as more complex because it is based on a holistic approach. Agrotechnical and other production measures are considered in combination with all possible consequences for the environment (soils, flora, fauna, etc.), as well as for human health and quality of life. It is based on the principle: 'From healthy soils to healthy plants, animals, and humans'.

Among the goals of organic agriculture, there are: (a) ecological: preservation and increase of soil fertility; environmental protection; conservation of biological diversity; protection of water and atmospheric air in the process of agricultural production, etc.; b) socio-economic: production of quality and environmentally friendly products of plant and animal origin; ensuring the competitiveness of the agricultural sector; improving the health and life expectancy of the population by improving the quality of food and the environment; ensuring sustainable development of the agrosphere, etc.

According to the IFOAM, the production of organic agricultural products is currently developing in more than 170 countries. The development is characterised by a steady upward trend, and its market size has reached 50-60 billion US dollars.<sup>10</sup> The world leaders in the area of organic production are Australia with 17.2 million hectares, 97% of which are pastures, Argentina with 3.1 million hectares, and the United States of America with 2.2 million hectares.<sup>11</sup>

In Ukraine in 2019, according to the Ministry of Economic Development, Trade and Agriculture, the total area of agricultural land with organic status and transition period amounted to about 468 thousand hectares (1.1% of the total area of agricultural land). Of the 617 registered organic market operators, 470 of them are agricultural producers. This allowed Ukraine to take second place in terms of imported organic products to the EU.<sup>12</sup>

Organic agricultural production as the latest method of agricultural management began in the 1920s based on the theory of anthroposophy of the Austrian philosopher R. Steiner. According to his teachings, humans, as part of the universe, must live in harmony with the world around them and must protect the natural balance by maintaining the chain: healthy animals eat healthy plants, healthy plants grow on healthy soil, and healthy soil depends on healthy animals, which, in turn, ensures human health. In 1924, R. Steiner read his

9 L Artemenko, 'Yevropeyskyy dosvid derzhavnoyi pidtrymky organichnoho vyrobnytstva u konteksti zabezpechennya prodovolchoyi bezpeky Ukrainy [The European experience of government support of the organic production in the context of ensuring food security of Ukraine]' (2009) 9 *Agrosvit* 46-52. DOI: 10.32702/2306-6792.2019.9.46

10 The official website of the International Federation of Organic Agriculture Movements <https://www.ifoam.bio/> accessed 11 April 2022.

11 V Grigoruk, Ye Klimov, 'Razvitiye organicheskogo sel'skogo khozyaystva v mire i Kazakhstane [Development of organic agriculture in the world and Kazakhstan]' in H Muminjanova (ed) *FAO* (Ankara 2016) 9-26; 'Orhanichne vyrobnytstvo v Ukraini: informatsiyno-analitychnyy portal APK Ukrainy [Organic production in Ukraine: information-analytical portal of the agro-industrial complex of Ukraine]' (11 December 2020) <<https://agro.me.gov.ua/ua/napryamki/organichne-virobnictvo/organichne-virobnictvo-v-ukrayini>> accessed 11 April 2022.

12 'Orhanichne vyrobnytstvo v Ukraini' (n 11).

'Agricultural Course' in Koberwitz (Poland), which became the concept of biodynamic agriculture as the basis of organic agriculture.<sup>13</sup>

The term 'organic farming' was first used in 1940 in England by Lord Northbourn (Walter Ernest Christopher James), an agricultural specialist at the University of Oxford. The British botanist Albert Howard also made a significant contribution to the development of organic agriculture. It was he who first described the negative effects of chemicals on the condition of plants and animals and suggested the use of plant composts and organic fertilisers. The beginning of organic gardening was laid by D.I. Rodeil. In 1971, the Rodeil Institute of Experimental Farming was established, which today occupies a leading position in the area of organic agriculture and has its own research farm.<sup>14</sup>

In 1972, the International Federation of the Organic Agricultural Movement (IFOAM) was founded in Versailles with the aim of introducing and disseminating information about organic agriculture in the world. IFOAM now brings together 760 member organisations in 108 countries, holds conferences, seminars, and meetings, publishes a quarterly newsletter in four languages, and coordinates the activities of various movements promoting organic agriculture around the world.<sup>15</sup>

IFOAM defines the principles of organic agriculture, which are universal for all countries, forms of ownership, and production of organic products. Among them are: 1) the principle of health. Organic agriculture aims to preserve and enhance the health of the soil, plants, animals, and humans as a whole – the health of the ecosystem. This principle shows that the health of the individual and society cannot exist separately from the health of ecosystems because healthy plants that support the health of animals and humans grow on healthy soils. Health is the unity and integrity of living systems. It is not just the absence of disease but the preservation of physical, mental, social, and environmental well-being. Immunity, resilience, and the ability to recover are key characteristics of health. There is also 2) the principle of environmental friendliness; 3) the principle of justice; 4) the principle of care. Organic agriculture is based on a responsible approach to the health and well-being of present and future generations of mankind and the environment in general.<sup>16</sup> These basic principles should be used as a whole. In many countries around the world, both the organic food market and the relevant certification and marketing services have been operating effectively in recent years. They adhere to these principles and respond to consumer demand in the global agri-food market. However, it should be noted that these IFOAM principles are declarative – they acquire legal force only by being enshrined in the law of a particular state. At the same time, not every state will follow this path because it will be quite difficult to ensure their observance. For example, no country in the world guarantees justice in terms of equal access of all segments of the population to organic products because their cost is much higher, taking into account not only their safety and quality level but also the investment of additional labour, certification costs, creating conditions for compliance with the requirements of organic production, etc.

Organic agriculture, as one of the alternative forms of agricultural production, is the latest attempt adapted to the environmental management system, which is based on a holistic approach and consists of the conduct of agricultural production, ensuring its sustainable

13 R Steine, *Anthroposophical Leading Thoughts*, translated by George and Mary Adams (Rudolf Steiner Press 1924) 230.

14 T Kurman, *Stalyy rozvytok sil's'kohsopodars'koho vyrobnytstva: problemy pravovoho zabezpechennya. [Sustainable development of agricultural production: problems of legal support]* (Urayt 2018) 241-243.

15 IFOAM, 'Organics International. Official website' <<https://www.ifoam.bio/en/about-us>> accessed 11 April 2022.

16 T Kurman (n 14) 241-243.

development to meet the needs of present and future human generations in organic products of crop production, animal husbandry, aquaculture, and agroforestry.<sup>17</sup>

Proper legal regulation of relations in the production of organic agricultural products is one of the means of ensuring food security and public health. The formation of the quality of organic products is under the influence of technological measures, norms, and requirements for the processes of its production. It is due to the observance of such norms and rules that agricultural products of plant and animal origin acquire organic properties. Its quality indicators should differ from indicators of products produced in the framework of traditional or transitional production. Among them, there are safety, reliability, economy, environmental friendliness, compliance with sanitary, technological, hygienic, and physiological standards, etc.

The safety of organic products is its most important characteristic in terms of its ability to affect human health and life. Its essence is the absence of the threat of harmful effects of these products on the human body. At the same time, the production of organic products is a means of ensuring agri-environmental safety and therefore should be characterised by the absence of harmful effects not only on the consumer but also on the environment.

In general, the legal provision of organic agriculture has evolved in world practice from the local level, from private standards set by farmers themselves. Farmers' associations, such as Bioland, Soil Association, and BioSuisse, developed and implemented their own voluntary standards, which later became the basis for the emergence of a legal framework in the field of organic agriculture. The first International Standards, harmonised by IFOAM, appeared in 1983.<sup>18</sup>

Today, most developed countries have their own system of legal regulation for organic production. The first laws in this area appeared in the 1980s in France and Denmark. In the United States, organic standards began to develop at the state level in the early 1970s, and, in 1990, the Organic Foods Production Act was passed. In order to implement the provisions of this law in the United States, the National Organic Program (NOP) – a federal legal framework governing the production of organic food – was established.<sup>19</sup> Under the Safe Food for Canadian Regulations (SFCR), any food that is labelled organic is regulated by the Canadian Food Inspection Agency (CFIA). With the adoption of the Organic Products Regulations (OPR) in 2009, the Canada Organic Regime (COR), which includes mandatory national standards, uniform labelling rules, national logos, and strict compliance with Canadian Food Inspection Agency requirements, was introduced.<sup>20</sup> In Argentina and Australia, there are organic regulations equivalent to Council Regulation (EC) No. 834/2007.<sup>21</sup> In Ukraine, relations in the area of organic production are regulated by the Law 'On basic principles and requirements for organic production, circulation and labeling of organic products' (2018).<sup>22</sup>

The United Nations Organization for Agriculture and Food (FAO) and the International Federation of Organic Agricultural Movements (IFOAM) are important for the formation of an international regulatory framework for organic production. In 1963, the FAO established

17 T Kurman, 'Teoretiko-pravovyye osnovy organicheskogo sel'skogo khozyaystva v Ukraine. [Theoretical and legal bases of organic agriculture in Ukraine]' (2018) 7 (2) *Legea si viata* 67-71.

18 V Grigoruk, Ye Klimov (n 11) 9-26.

19 Ibid.

20 Ibid.

21 Office of the United Nations High Commissioner for Human Rights, 'Human rights. The right to adequate food. Statement of facts' (2011) 34: 58.

22 Zakon Ukrainy, 'Pro osnovni prynstypy ta vymohy do orhanichnoho vyrobnytstva, obihu ta markuvannya orhanichnoyi produktsiyi [On the basic principles and requirements for organic production, circulation and labeling of organic products]' of 10 July 2018; Information of the Verkhovna Rada of Ukraine (VVR) (2018) 36, Art. 275.

an intergovernmental organisation, the Codex Alimentarius Commission, which introduced the International Food Standards (Codex Alimentarius)<sup>23</sup> and developed the 'Guidelines for the Manufacture, Processing, Labeling and Sale of Organic Products' to introduce uniform international requirements. However, this normative document ignores the requirements for the original organic agricultural raw materials from which such products originate. IFOAM formulated the first Basic Standards for Organic Agriculture. Products can only be considered organic if they are certified by an IFOAM accredited body. The regulatory requirements developed by the Codex Alimentarius and IFOAM include the principles of management of organic production, rules for processing, storage, packaging, and transportation of organic food, as well as a list of substances permitted for use in their production and processing.

It should be noted that the permissible content of inorganic substances should also be determined separately for raw materials and finished products because the concentration of chemicals may change as a result of processing.

The legal basis for European legislation in this area is Commission Directive (EC) No. 889/2008 of 5 September 2008 'Detailed rules on organic production, labeling and control for the implementation of Council Regulation (EC) No. 834/2007 on organic production and labeling organic products, Council Regulation (EC) No. 834/2007 of 5 September 2008 "On organic production and labeling of organic products"<sup>24</sup>

In non-EU countries, the standard of the International Accredited Certification Bodies for Organic Production and Processing, equivalent to the European Union Standard according to Council Regulation (UN) No. 834/2007 and No. 889/2008<sup>25</sup>, is applied. In 2021, a new EU legislative act in the area of production and labeling of organic products came into force – the Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labeling of organic products and repealing Council Regulation (UN) ) No. 834/2007.<sup>26</sup>

The essential properties of organic products are environmental friendliness, naturalness, and the absence of preservatives, antibiotics, other chemicals, GMOs, any inorganic components, etc. Compliance with these properties must be confirmed by a certificate. This feature is legal in nature, as it has a normative basis, both at the national and international levels. It is also important to consider the specific needs of the consumer because when buying organic products, one expects higher safety and quality.

Therefore, when formulating the content of the legal category 'quality of organic products', fixing quality requirements in special regulations, standards, and other technical documentation and confirmation of compliance with the certificate of conformity should be considered as objective components, and the ability to meet consumer needs in natural, environmentally friendly products as a subjective component.

Among the responsibilities of any state to guarantee the right to safe and wholesome food at the national level are: observance of the right of the population to access safe (children's, medical, and dietary) food, including organic food; strengthening economic and social opportunities for the population to access organic food. If the population is unable, for objective reasons, to

23 FAO of the UN, World Health Organization, 'Codex Alimentarius. International food standards' <<http://www.fao.org/fao-who-codexalimentarius/codex-texts/maximum-residue-limits/en/>> accessed 11 April 2022.

24 Commission Regulation (EC) 889/2008 with provisions on the implementation of Council Regulation (EU) No 834/2007 on organic production, labeling of organic products and control. Official Journal of the European Union (OJ L) 2008 250: 1.

25 Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products. Official Journal of the European Union (OJ L) 2007; 189: 1.

26 Office of the United Nations High Commissioner for Human Rights (n 21).

use the right to organic food at the expense of available funds, the state should provide access to it, for example, through food aid or social assistance coverage for the most vulnerable.<sup>27</sup>

To fulfil this duty at the legislative level, we need a unified procedure for certification of organic production, a procedure for determining the suitability of soils for organic agriculture, special standards and technical regulations for certain types of organic products,<sup>28</sup> a list and mechanism of effective means of state support for both producers of organic food and its consumers (especially socially vulnerable groups), etc.

### 3 CONCLUSIONS

The preservation of human health, the possibility to realise one's natural right to life, and the state of demographic processes directly depend on the level of safety and quality of food. Organic agriculture is the key to ensuring a high level of safety and quality of agricultural products, environmental protection, public health, and many other tasks. Differences in the organic legislation of different countries are reflected in the legal support of organic agriculture at the national level. However, the need to address medical and legal issues of public health requires a joint effort of the world community in the development and creation of unified legal foundations for organic production and universal standards for organic agricultural products, the introduction of an effective international legal mechanism for legal support of organic agriculture, and the stimulation of its development and promotion healthy lifestyle and organic foods.

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27 Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) № 834/2007. Official Journal of the European Union (OJ L) 2018; 150: 1-92.

28 M Shulga, N Malysheva, V Nosik et al., Orhanichne sil's'kohospodars'ke vyrobnytstvo v Ukraini: pravovy zasady vedennya [Organic agricultural production in Ukraine: legal principles] (Yuryt 2020) 205.



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