Study on the implementation of conformity checks in the olive oil sector throughout the European Union

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KEY TERMS

Term	Definition
Olive oils	Generic term used to refer to any of the different categories of olive oils (e.g. virgin olive oil, extra virgin olive oil, etc.) as described below.
Virgin olive oils	"Virgin olive oils" are intended as oils obtained from the fruit of the olive tree solely by mechanical or other physical means under conditions that do not lead to alterations in the oil, which have not undergone any treatment other than washing, decantation, centrifugation or filtration, to the exclusion of oils obtained using solvents or using adjuvants having a chemical or biochemical action, or by re-esterification process and any mixture with oils of other kinds. It includes the categories of "extra virgin olive oil", "virgin olive oil" and "lampante olive oil".
Extra virgin olive oil	"Extra virgin olive oil" means superior category virgin olive oil having a maximum free acidity in terms of oleic acid of 0.8 g per 100 g and its other physico-chemical and organoleptic characteristics corresponding to those fixed for this category.
Virgin olive oil	"Virgin olive oil" means virgin olive oil having a maximum free acidity in terms of oleic acid of 2 g per 100 g and its other physico-chemical and organoleptic characteristics corresponding to those fixed for this category.
Lampante olive oil	"Lampante olive oil" means virgin olive oil having a free acidity in terms of oleic acid of more than 2 g per 100 g and its other physico-chemical characteristics corresponding to those fixed for this category.
Refined olive oil	"Refined olive oil" means olive oil obtained by refining virgin olive oil, having a free acidity content, expressed as oleic acid of not more than 0.3 g per 100 g and its other physico-chemical characteristics corresponding to those fixed for this category.
Olive oil – composed of refined olive oils and virgin olive oils	"Olive oils composed of refined olive oils and virgin olive oils" means olive oil obtained by blending refined olive oils and virgin olive oils other than lampante olive oil, having a free acidity content, expressed as oleic acid, of not more than 1 g per 100 g, and its other physico-chemical characteristics corresponding to those fixed for this category.
Crude olive-pomace oil	"Crude olive-pomace oil" means oil obtained from olive-pomace by treatment with solvents or by physical means or oil corresponding to lampante olive oil, except for certain specified characteristics, excluding oil obtained by means of re-esterification and mixtures with other types of oils, and its other physico-chemical characteristics corresponding to those fixed for this category.
Refined olive-pomace oil	"Refined olive-pomace oil" means oil obtained by refining crude olive-pomace oil, having free acidity content, expressed as oleic acid, of not more than 0.3 g per 100 g, and its other physico-chemical characteristics corresponding to those fixed for this category.
Olive-pomace oil	"Olive-pomace oil" means oil obtained by blending refined olive-pomace oils and virgin olive oils other than lampante olive oil, having a free acidity content, expressed as oleic acid, of not more than 1 g per 100 g, and its other physico-chemical characteristics corresponding to those fixed for this category.
Conformity checks	Controls implemented by Member States competent authorities (at State/regional/local level) to check the conformity of olive oils to the relevant marketing standards.
Produced olive oils	Total quantity of olive oils and olive-pomace oil of a relevant Member State that is produced in that Member State, for internal consumption or for exporting to other Member State(s) or Third Country(ies).
Consumed olive oils	Total quantity of olive oils and olive-pomace oil of a relevant Member State that is consumed in that Member State. The consumed olive oils can be domestically produced or imported from other Member State(s) or from Third Country(ies).

Term	Definition
Direct sales	Sales of olive oils by (often small) producers directly to consumers. These sales may take place on farms, online, in markets or on the road.
Producing Member State(s)	Member States that have a domestic production of olive oil. In the EU only 9 Member States have a domestic production of olive oils and are considered as producing Member States: *Cyprus, Croatia, France, Greece, Italy, Malta, Portugal, Slovenia* and *Spain*. Producing Member States are also leading consumers of olive oils.
Non-producing Member State(s)	Member States that do not have a domestic production of olive oils. Certain non-producing Member States are consumers of olive oils, hence they import from producing Member States or from Third Countries the internally needed quantity of olive oils.

ABSTRACT

Olive oil is considered as a food category at high risk of non-compliances and frauds, due to its high economic value compared to other food products. Conformity checks performed by national competent authorities aim at ensuring that marketing standards for olive oils are complied with on the EU market. This study investigates how conformity checks in the olive oil sector are conducted at Member State level across the EU, to identify the related problems and bottlenecks and to propose solutions to improve their effectiveness and efficiency. Member States generally consider that the EU conformity checks system for olive oils is globally fit for purpose. However, the study identifies some challenges and difficulties in implementing conformity checks on olive oils at Member State level: these derive from national specificities (e.g. multiple competent authorities involved in the system; insufficient funding; lack of skilled staff; etc.), or concern the overall timing to perform the checks and in particular the organoleptic assessment of olive oils through tasting panels. The proposed solutions aim at improving the training of staff, the performance of organoleptic assessment and the labelling of olive oils. Potential solutions to ensure traceability in the olive oil sector are also discussed.

RÉSUMÉ

L'huile d'olive est considérée comme une catégorie alimentaire, exposée à un risque élevé de non-conformité et de fraude, en raison de sa valeur économique élevée par rapport à d'autres produits alimentaires. Les contrôles de conformité effectués par les autorités nationales compétentes visent à garantir le respect des normes de commercialisation des huiles d'olive sur le marché de l'UE. Cette étude se penche sur la manière dont les contrôles de conformité dans le secteur de l'huile d'olive sont menés au niveau des États membres dans l'ensemble de l'UE, afin d'identifier les problèmes et difficultés connexes et de proposer des solutions pour améliorer leur efficacité et leur efficience. Les États membres considèrent généralement que le système de contrôles de conformité de l'UE en matière d'huiles d'olive est globalement adapté à l'usage auquel il est destiné. Toutefois, l'étude constate certains défis et difficultés dans la mise en œuvre des contrôles de conformité des huiles d'olive au niveau des États membres: Ceux-ci sont issus de spécificités nationales (par ex. multiples autorités compétentes impliquées dans le système, financement insuffisant, manque de personnel qualifié, etc.) ou bien concernent le calendrier global de réalisation des contrôles et de l'évaluation organoleptique des huiles d'olive par le biais de panels de dégustation. Les solutions proposées visent à améliorer la formation du personnel, les performances des évaluations organoleptiques et l'étiquetage des huiles d'olive. Il est également question des solutions potentielles permettant d'assurer la traçabilité dans le secteur de l'huile d'olive.

EXECUTIVE SUMMARY

Context and objectives of the study

Olive oil, and notably extra virgin olive oil, is considered as a food category at high risk of non-compliances and frauds, due to its high economic value compared to other food products. Conformity checks are the key tool to ascertain and ensure that marketing standards specifically designed for a product are effectively complied with on the EU market. At EU level, three main Regulations establish marketing standards for olive oil, and rules for the related conformity checks: Regulation (EU) No 1308/2013 of the European Parliament and the Council of 17 December 2013; Commission Implementing Regulation (EU) No 29/2012 of 13 January 2012; and Commission Regulation (EEC) No 2568/91 of 11 July 1991. These Regulations define, among others, olive oil characteristics and requirements for its marketing. In general, olive oils must be compliant with the quality and purity characteristics as defined in Annex I of Commission Regulation (EEC) No 2568/91, depending on the specific product category considered[1]. Verification of compliance with such characteristics is determined through conformity checks performed by national competent authorities. According to Article 8(2) of Regulation (EEC) No 2568/91, Member States are required to notify to the European Commission on an annual basis the measures implementing the same Regulation. Regulation (EU) No 29/2012 lays down the marketing rules for olive oil, and regulates a number of aspects of the conformity checks system, including the sending and receiving of verification requests on infringements that concern at least two Member States. The Administrative Assistance and Cooperation (AAC) system is the main channel for sending and receiving verification requests to and from other Member States.

Against this background, this study investigates how conformity checks in the olive oil sector are conducted at Member State level across the European Union. The study also aims at identifying and defining actions that are required to meet the objectives of the system of conformity checks, also taking into account the aims of the marketing standards in the olive oil sector. Finally, the study conclusions highlight the main identified problems and bottlenecks of the current system of conformity checks on olive oils, as well as the possible solutions to those problems and bottlenecks.

The study is structured around **three Themes** and nine national case studies, carried out in both Member States that produce olive oils ("producing Member States") and Member States that rely exclusively on imports to meet their domestic demand for olive oils ("non-producing Member States").

Theme I focuses on the description of the olive oil sector and on the analysis of the current situation on conformity checks, as regulated at EU level and implemented in all EU28 Member States; a more detailed analysis is provided for the Member States covered by national case studies.

Theme II focuses on the assessment of two key aspects: a) the extent to which the general objectives of the system of conformity checks are currently achieved; b) the identification of problems/gaps that prevent the achievement of such objectives at national level. The challenges of the conformity checks system and of the notification and verification processes are also investigated.

Theme III focuses on: a) the identification of national specificities which can be considered as best practices for the development of an effective and efficient system of conformity checks; b) the elaboration of suggestions for improving the effectiveness and efficiency of the current approach to conformity checks, also including suggestions to ensure traceability and detect frauds in the olive oil sector and the identification of suitable approaches for the notification of non-compliances regarding olive oils to the European Commission.

[1] The Regulation defines the characteristics of the following typologies of olive oil: extra virgin olive oil, virgin olive oil; lampante olive oil; refined olive oil; olive oil composed of refined and virgin olive oils; crude olive-pomace oil; refined olive-pomace oil; and olive-pomace oil.

Methodology

A combination of different methods and data sources was used to collect a comprehensive evidence base for assessing the three study themes; more specifically:

- **Desk research** on relevant legislative acts and documentation at EU level and in the Member States covered as case studies played an important role to collect evidence for the assessment of all the study themes, and in particular for developing the descriptive part under Theme I.
- **Interviews with competent authorities, stakeholders and independent experts** were carried out both at EU level and in Member States covered as case studies, with the aim of collecting evidence for the assessment of all the study themes, and in particular of Themes II and III.
- **Survey of Member States' competent authorities**, mainly aimed at: a) collecting evidence on the organisation of the system of conformity checks in the olive oil sector; b) collecting evidence on the implementation of conformity checks at Member State level and on the critical issues that can affect the effectiveness and/or the efficiency of these checks.
- **A focus group** was finally organised for a) validating the findings emerged from the study and b) collecting useful insights for the elaboration of suggestions for improving the effectiveness and efficiency of the system of conformity checks in the olive oil sector under Theme III.

The bulk of the evidence for the assessment – in particular for what concerns the functioning mechanisms of the conformity checks system - was collected in the Member States covered as case studies. Nine Member States were selected as case studies: *France, Greece, Italy, Portugal* and *Spain* (producing Member States); *Belgium, Denmark, Germany* and *Poland* (non-producing Member States). The selection of Member States covered by case studies can be considered as largely representative of the EU olive oil sector, in terms of both production and consumption: the nine selected Member States account for 90.7% of the EU consumption of olive oils, and for almost the entire EU production of olive oils (99.4%).

Analysis of the organisation and functioning of the olive oil sector (Theme I)

Organisation of the system of conformity checks and of the related system of penalties

With some notable exceptions, **the system of conformity checks at Member State level** is generally managed by the authority dealing with the food or agricultural sector, a ministerial entity or an agency within a Ministry. In several small and/or non-producing Member States[2], only one authority is in charge of the conformity checks system and there are no departments or programmes as well as legislation specifically covering olive oils. In a number of cases, the coordination of conformity checks for olive oils lies with one or more central competent authorities, but a key role is also played by local entities. However, the range of activities in charge of local entities varies from Member State to Member State. In some Member States the competent authorities dealing with food safety issues are also in charge of controls on quality and marketing of food products, including olive oils, whereas in other Member States the responsibilities for food safety and for conformity checks are allocated to different authorities.

As for the **system of penalties**, in the majority of Member States the penalties applying to the olive oil sector are the same as or similar to penalties that national legal orders set out for the violation of legal requirements concerning other food products. A minor number of Member States currently have specific penalties in place for the infringement of legal provisions applying to olive oil.

Risk analysis

Risk analysis is a key element of the conformity checks system for olive oils, since an adequate performance of this activity allows competent authorities to target their control activities as appropriate, thus ensuring the efficacy and efficiency of checks. However, risk analysis is also a major challenge faced by national competent authorities with respect to the entire conformity checks system. In fact, Member States have a high degree of

[2] However, there are also non-producing Member States (e.g. *Germany*) where multiple competent authorities are involved in conformity checks on olive oils.

flexibility in performing risk analysis and may take into account different criteria for its purposes. Across the EU, the three main identified criteria used for risk analysis are the following: a) category of oil: the majority of controls is focused on bottled extra virgin olive oil; b) the position of operators in the marketing chain; c) the findings made during previous checks.

Number and allocation of checks

According to Regulation (EEC) No 2568/91, EU Member States should perform each year at least one conformity check per thousand tonnes of olive oil marketed in each Member State; however, some Member States perform a number of checks that is higher than the minimum number foreseen in the Regulation.

Conformity checks should be performed in all the relevant stages of the supply chain. Member States should assess the level of risk of each stage of the production and marketing chain and design their control plans accordingly. In producing Member States, all the stages of the supply chain should be covered by controls, whereas in non-producing Member States, distributors and retailers are mostly controlled. However, also in producing Member States some stages of the supply chain can be relatively more controlled than other stages. For what concerns the classification and packaging of products to be checked, the majority of checks is targeted at extra virgin olive oil, and at bottled oils in general.

Panel tests and counter-assessment

When performing checks, organoleptic characteristics of virgin olive oils must be verified by tasting panels approved by Member States. All tasting panels approved for the purposes of olive oil controls at national level shall be also recognised by the International Olive Council (IOC). In Member States that do not have established tasting panels on their national territories, the organoleptic assessment is performed by approved tasting panel(s) located in other Member States. In some Member States, also physico-chemical analyses are contracted out to laboratories located in other Member States.

When a panel deems that a sample of virgin olive oil does not correspond to the declared category, two counter-assessments by other approved panels are carried out upon the interested party's request. It should be noted that among the number of counter-assessments requested in each Member State, the share of counter-assessments that have proven to be “in favour” of the operators is generally quite low.

Results of the conformity checks and their notification

In spite of the diversity of cases, some key trends can be highlighted with respect to the main infringements detected on olive oils. In particular, the marketing of virgin olive oil as extra virgin olive oil, as detected through chemical analyses and/or organoleptic assessment, is by far the most widespread type of non-compliance identified with respect to the organoleptic characteristics of olive oils that are declared as "extra virgin olive oil".

The results of conformity checks are notified by national competent authorities each year to the European Commission according to a dedicated format laid out in Regulation (EEC) No 2568/1991.

Verification request process

The use of the Administrative Assistance and Cooperation (AAC) system to notify non-conformities on olive oils with cross-border relevance[3] has been recently implemented. Therefore, the majority of Member States never received a request for verification and do not have experience on the procedures to follow up such requests. The study revealed that follow-up to a request for verification regards: official inspection at the concerned facilities; sampling of the same product meant to be marketed in the same Member State which issued the request; checks on all labels of the business operator concerned by the request; issue of a warning to the concerned operator; request of further information on the traceability of the concerned product.

Communication around conformity checks

Different implementing actions and sometimes diverging views on their effectiveness emerged from the analysis of the situation in the Member States covered by case studies. Some Member States annually publish

[3] According to Regulation (EU) No 29/2012, when irregularities are detected on an olive oil whose manufacturer, packer or seller is located in the territory of another Member State, the controlling Member State should submit a request for verification to the competent authority(ies) of the concerned Member State(s).

the results of checks whereas other Member States never publish them. In any case, information on the results of individual checks or on individual sanctions imposed is never published, mainly due to protection of confidentiality of business data. In addition, special attention is often given to the protection of the name of the operators targeted by control activities. Nevertheless, media sometimes published information on individual cases, usually against the will of competent authorities. As for communication around the results of conformity checks at EU level, the results communicated on an annual basis by national competent authorities to the European Commission are currently not publicly available.

Identification of needs (Theme II)

Extent to which the objectives are currently achieved

The assessment of the extent to which the current system of conformity checks for olive oils meets the objective of ensuring adequate consumer protection and fair trade practices in business-to-consumer relationships indicated that the current EU framework generally ensured the achievement of these objectives. In addition, for producing Member States, the EU provisions on conformity checks have effectively contributed to improve the quality of the products on the market and to reduce the prevalence of fraudulent practices. By contrast, some non-producing Member States and consumers' associations deem that the level of consumer protection guaranteed through EU conformity checks on olive oils is not fully satisfactory, and should be further improved.

The assessment of the extent to which the current system meets the objective of ensuring a level playing field, effective functioning of the internal market and fair trade practices indicated that these objectives have been achieved only partially. Viewpoints on this aspect are positioned on a wide spectrum, since they vary in accordance with the specific national context. In general, business stakeholders of producing Member States are more satisfied with the consequences for their sector stemming from the implementation of the conformity checks system.

Problems/gaps in the implementation of the conformity checks system

The main **organisational problems and gaps** that were identified via the case studies relate primarily to the coexistence of, and coordination among, several national (and in some Member States, also regional/local) competent authorities with regard to the planning and the performance of conformity checks. Also the lack of resources either in terms of **staff** with adequate skills or of adequate **funding** is perceived as a key obstacle to the achievement of the objectives of the conformity check system. In performing checks, some problems related to the average duration of conformity checks until their final completion, to keep the timeline of control activities and to cover all the points of sale of olive oils were also identified.

As regards the legislative framework, the following two problems/gaps were identified: a) the difficulty to attribute the legal responsibility towards a specific business operator for a non-compliance or a suspected fraudulent practice detected following the performance of a conformity check; b) a few Member States also referred that sanctions for non-conformities or fraudulent practices in the olive oil sector are not foreseen or adequately designed for that purpose at national level.

The **most prominent technical problem** emerged from the study is the organisation and performance of organoleptic assessment. For some industry stakeholders, in particular, the main problem of the organoleptic assessment lies in sometimes inconsistent results across tasting panels or even within the same tasting panel. Those stakeholders hence question the reliability of the method. However, according to the majority of the consulted stakeholders (especially competent authorities, but also business associations representing the interests of producers), the standardisation of assessment methods allows to consider the organoleptic assessment as an objective method rather than as a subjective one, despite it relies on persons rather than equipment.

Some **challenges were also identified in the process of notification of results**, mainly related to the difficulties encountered in the use of the spreadsheet for communicating the results, the timing for compiling the document, the process to collect data from regional competent authorities (where relevant) and the co-existence of the various systems that may be used for sharing information on non-conformities regarding olive oil. However, it should be noted that in general the notification process has been positively judged by national competent authorities.

Finally, **the verification requests process managed through the Administrative Assistance and Cooperation (AAC) system** is positively judged by national competent authorities. The recent decision to use this digital system for the communication among Member States facilitated the process and improved its efficiency. However, the use of the AAC system to send and receive verification requests is relatively recent: this implies that its added value and medium-term impacts are still difficult to appreciate for several national competent authorities.

Mapping and analysis of the relationships between needs and instruments (Theme III)

Best practices

A number of best practices in the implementation of conformity check system were identified:

- Performing controls in the framework of conformity checks on olive oils in combination with controls for checking compliance with other provisions.
- Appropriate allocation of tasks among the different entities and/or geographical levels/areas involved.
- Appropriate allocation of responsibilities among the different national competent authorities/offices involved.
- Training of staff, including the organisation of training sessions for the staff of the competent authorities and the continuous training of participants to tasting panels.
- Presence of an adequate number of laboratories for performing organoleptic assessment and physico-chemical analyses.
- The use of quantitative tools to perform the risk analysis.
- An effective penalty and sanction system.

In addition, also a number of best practices related to the broader context of the olive oil sector that, at the same time, contribute positively to the effectiveness and efficiency of the system of conformity checks on olive oils were identified, including: the presence of intra-sectoral cooperation; the organisation of training workshops or the development of guidelines for producers; the development of national legislation that regulates specific aspects of the food sector or of the conformity checks system, at least in Member States with the largest domestic production and consumption of olive oil. Finally, the development of traceability systems and of other types of databases containing information on the olive oil sector can contribute to the creation of positive synergies between these systems and the system of conformity checks for olive oils, thus improving the efficacy of the overall system of controls.

Suggestions for improving the system of conformity checks

The study revealed that, in general, stakeholders of the olive oil sector value the organisation of conformity checks and recognise that their implementation at national level has improved over time. Nevertheless, there are a number of areas where suggestions for some concrete improvements were identified:

Training of staff: a high interest was expressed in the organisation of EU trainings on olive oil legislation and conformity checks destined to national staff in charge of checks. The idea behind these trainings is not only to disseminate the latest technical knowledge and official guidance at EU level, but also to foster the sharing of good practices between Member States as well as international cooperation.

Organoleptic* assessment*: the following suggestions for improvement have been identified for the organisation and performance of organoleptic assessment: the introduction of uncertainty margins; the establishment of reference samples for the different types of olive oils; the organisation of regular ring tests involving tasting panels from different Member States, under the responsibility and the coordination of the European Commission. In general, the need for more cooperation and coordination at EU level to facilitate the performance of counter-assessments in the Member State from where the olive oil originates was identified.

Labelling information: Some consulted national competent authorities consider that the mandatory provision on labels of such particulars as information on date of harvesting of olives and information on date and place of bottling of olive oil could be helpful in the organisation and performance of conformity checks.

The ***system of penalties*** was identified as an area that needs further improvement. Sanctions for non-conformities or fraudulent practices in the olive oil sector are often similar to the ones existing for other food products. In some Member States, they are either not foreseen or adequately designed for that purpose at national level. However, an EU harmonisation of penalties for non-conformities in the olive oil sector is generally not supported, given the different national legal traditions, and the fact that it would be difficult to justify for olive oil as opposed to other food categories.

The study also investigated **the possibility to implement additional provisions to ensure traceability and detect frauds in the olive oil** sector that can improve the overall efficiency and effectiveness of the conformity checks system. The assessment of this issue indicated that the implementation of traceability systems is a potentially very useful tool to rely on for planning and performing conformity checks, as well as for detecting fraudulent practices in the olive oil sector. Nevertheless, given the large variability in the importance of the olive oil sector across EU Member States and the large variety of opinions on the costs and benefits of this tool, further discussions on this topic should be encouraged.

The study also identified **solutions for improving the approaches for notifying non-conformities** to the European Commission, in particular in terms of simplification of the format currently used. Possible **improvements in the communication of the results of conformity checks on olive oils** were finally related to: sharing of the full data set between the European Commission and all Member States; publication of the results of conformity checks to the benefit of the general public.

RESUME EXECUTIF

Contexte et objectifs de l'étude

L'huile d'olive, notamment l'huile d'olive extra-vierge, est considérée comme une catégorie alimentaire, exposée à un risque élevé de non-conformité et de fraude, en raison de sa valeur économique élevée par rapport à d'autres produits alimentaires. Les contrôles de conformité sont l'outil essentiel pour vérifier et garantir que les normes de commercialisation spécifiquement définies pour un produit sont effectivement respectées sur le marché de l'UE. Au niveau de l'UE, trois Règlements majeurs établissent des normes de commercialisation pour l'huile d'olive ainsi que des règles pour les contrôles de conformité associés: Règlement (UE) n°1308/2013 du Parlement européen et du Conseil du 17 décembre 2013; Règlement d'application de la Commission (UE) n°29/2012 du 13 janvier 2012; et Règlement de la Commission (CEE) n°2568/91 du 11 juillet 1991. Ces Règlements définissent, entre autres, les caractéristiques et les exigences de commercialisation de l'huile d'olive. En général, les huiles d'olive doivent être conformes aux caractéristiques de qualité et de pureté telles que définies dans l'Annexe I du Règlement (CEE) n°2568/91 de la Commission, en fonction de la catégorie de produits considérée[4]. Des contrôles de conformité effectués par les autorités nationales compétentes (AC) permettent de vérifier la conformité à ces caractéristiques. Conformément à l'Article 8(2) du Règlement (CEE) n°2568/91, les États membres sont tenus de notifier chaque année à la Commission européenne les mesures d'application dudit Règlement. Le Règlement (UE) n°29/2012 établit les règles de commercialisation de l'huile d'olive et réglemente un certain nombre d'aspects du système de contrôles de la conformité, y compris l'envoi et la réception de demandes de vérification relatives à des infractions concernant au moins deux États membres. Le système de coopération et d'assistance administratives (AAC) constitue le principal canal d'envoi et de réception des demandes de vérification à destination et en provenance d'autres États membres.

Dans ce contexte, la présente étude examine la manière dont les contrôles de conformité dans le secteur de l'huile d'olive sont effectués au niveau des États membres dans l'ensemble de l'Union européenne. L'étude vise également à identifier et à définir des actions nécessaires pour atteindre les objectifs du système des contrôles de conformité, en tenant compte également des objectifs des normes de commercialisation dans le secteur de l'huile d'olive. Enfin, les conclusions de l'étude mettent en lumière les principaux problèmes et goulets d'étranglement identifiés au niveau du système actuel des contrôles de conformité des huiles d'olive ainsi que les solutions possibles à ces problèmes et goulets d'étranglement.

L'étude est organisée autour de **trois Thèmes** et de neuf études de cas nationales, réalisées à la fois dans les États membres qui produisent de l'huile d'olive («États membres producteurs») et dans les États membres qui dépendent exclusivement des importations pour répondre à leur demande intérieure en matière d'huile d'olive («États membres non producteurs»).

Le thème I se concentre sur la description du secteur de l'huile d'olive et sur l'analyse de la situation actuelle concernant les contrôles de conformité, tels qu'ils sont réglementés au niveau de l'UE et mis en œuvre dans tous les 28 États membres de l'UE; une analyse plus détaillée est fournie pour les États membres couverts par les études de cas nationales.

Le thème II est axé sur l'évaluation de deux aspects essentiels: a) dans quelle mesure les objectifs généraux du système des contrôles de conformité sont actuellement atteints; b) l'identification des problèmes/lacunes qui empêchent la réalisation de ces objectifs au niveau national. Les défis rencontrés par le système des contrôles de conformité et par les processus de notification et de vérification sont également examinés.

Le thème III se penche tout particulièrement sur: a) l'identification des spécificités nationales qu'il est possible de considérer comme les meilleures pratiques pour le développement d'un système efficace et efficient de contrôles de conformité; b) l'élaboration de suggestions visant à améliorer l'efficacité et l'efficience de l'approche actuelle en matière de contrôles de conformité, y compris des suggestions visant à assurer la

[4]Le Règlement définit les caractéristiques des typologies suivantes relatives à l'huile d'olive: huile d'olive extra vierge, huile d'olive vierge; huile d'olive lampante; huile d'olive raffinée; huile d'olive composée d'huiles d'olive raffinées et vierges; huile de grignons d'olive brute; huile de grignons d'olive raffinée; et huile de grignons d'olive.

traçabilité et à détecter les fraudes dans le secteur de l'huile d'olive. Il s'agit également d'identifier les approches appropriées pour la notification des non-conformités relatives aux huiles d'olive à la Commission européenne.

Méthodologie

Différentes méthodes et sources de données ont été combinées pour recueillir une base de données exhaustive permettant l'évaluation des trois thèmes de l'étude, plus précisément:

- **La recherche documentaire** sur les textes et la documentation législatifs pertinents au niveau de l'UE et dans les États membres pris en compte pour les études de cas, a joué un rôle important dans la collecte de données probantes nécessaires pour l'évaluation de tous les thèmes de l'étude, en particulier pour le développement de la partie descriptive au titre du Thème I.
- **Des entretiens avec les autorités compétentes, les parties prenantes et des experts indépendants** ont été menés tant au niveau de l'UE que dans les États membres pris en compte pour les études de cas, et visaient à recueillir des données probantes pour l'évaluation de tous les thèmes d'étude, en particulier des thèmes II et III.
- **Enquête auprès des autorités compétentes des États membres** visant principalement à: a) Collecter des données probantes sur l'organisation du système de contrôles de conformité dans le secteur de l'huile d'olive; b) Collecter des données probantes sur la mise en œuvre des contrôles de conformité au niveau des États membres et sur les questions critiques susceptibles d'affecter l'efficacité et/ou l'efficience de ces contrôles.
- **Un groupe de discussion** a finalement été organisé pour a) valider les résultats de l'étude et b) collecter des renseignements utiles pour l'élaboration de suggestions visant à améliorer l'efficacité et l'efficience du système de contrôles de conformité dans le secteur de l'huile d'olive au titre du Thème III.

L'essentiel des données probantes pour l'évaluation, en particulier en ce qui concerne les mécanismes de fonctionnement du système de contrôles de conformité, a été recueilli dans les États membres pris en compte pour les études de cas. Neuf États membres ont été retenus pour les études de cas: *France, Grèce, Italie, Portugal* et *Espagne* (États membres producteurs); *Belgique, Danemark, Allemagne* et *Pologne* (États membres non producteurs). La sélection des États membres pris en compte pour les études de cas peut être considérée comme largement représentative du secteur de l'huile d'olive de l'UE, tant en termes de production que de consommation: Les neuf États membres sélectionnés représentent 90.7% de la consommation d'huiles d'olive de l'UE et la quasi-totalité de la production d'huiles d'olive de l'UE (99.4%).

Analyse de l'organisation et du fonctionnement du secteur de l'huile d'olive (Thème I)

Organisation du système des contrôles de conformité et du système de sanctions associé

À quelques exceptions notables près, **le système des contrôles de conformité au niveau des États membres** est généralement géré par l'autorité chargée du secteur alimentaire ou agricole, une entité ministérielle ou une agence au sein d'un Ministère. Dans plusieurs petits États membres et/ou États non producteurs[5], une seule autorité est en charge du système de contrôles de la conformité, il n'existe aucun département ou programme ni aucune législation couvrant spécifiquement les huiles d'olive. Dans un certain nombre de cas, la coordination des contrôles de conformité des huiles d'olive est assurée par une ou plusieurs autorités compétentes centrales, mais un rôle majeur est également joué par les entités locales. Toutefois, l'éventail des activités en charge des entités locales varie d'un État membre à l'autre. Dans certains États membres, les autorités compétentes qui traitent des questions de sécurité alimentaire sont également en charge des contrôles de la qualité et de la commercialisation des produits alimentaires, y compris les huiles d'olive, tandis

[5] Toutefois, il existe également des États membres non producteurs (par ex. l'*Allemagne*), dans lesquels plusieurs autorités compétentes sont impliquées dans les contrôles de conformité des huiles d'olive.

que dans d'autres États membres, les responsabilités en matière de sécurité alimentaire et de contrôles de la conformité sont attribuées à différentes autorités.

En ce qui concerne le **système de pénalités**, dans la majorité des États membres, les sanctions applicables au secteur de l'huile d'olive sont identiques ou similaires aux sanctions prévues par les ordres juridiques nationaux en cas de violation des exigences légales concernant d'autres produits alimentaires. Un petit nombre d'États membres appliquent actuellement des sanctions spécifiques en cas d'infraction aux dispositions légales applicables à l'huile d'olive.

Analyse des risques

L'analyse des risques est un élément clé du système des contrôles de conformité des huiles d'olive, car une performance adéquate de cette activité permet aux autorités compétentes de cibler leurs activités de contrôle de manière appropriée, ce qui assure ainsi l'efficacité et l'efficience des contrôles. Cependant, l'analyse des risques constitue également un défi majeur rencontré par les autorités compétentes des États membres en ce qui concerne l'ensemble du système des contrôles de conformité. En fait, les États membres disposent d'une grande souplesse dans la réalisation de l'analyse des risques et peuvent tenir compte de différents critères à ses fins. Dans l'ensemble de l'UE, les trois principaux critères retenus pour l'analyse des risques sont les suivants: a) Catégorie d'huile (la majorité des contrôles porte sur l'huile d'olive extra vierge embouteillée); b) La position des exploitants dans la chaîne de commercialisation; c) Les constatations formulées lors des contrôles précédents.

Nombre et attribution des contrôles

Conformément au Règlement (CEE) n°2568/91, les États membres de l'UE devraient effectuer chaque année au moins un contrôle de conformité par millier de tonnes d'huile d'olive commercialisées dans chaque État membre; toutefois, certains États membres effectuent un nombre de contrôles supérieur au nombre minimal prévu dans le Règlement.

Les contrôles de conformité devraient être effectués à toutes les étapes pertinentes de la chaîne d'approvisionnement. Les États membres devraient évaluer le niveau de risque à chaque étape de la chaîne de production et de commercialisation et concevoir leurs plans de contrôle en conséquence. Dans les États membres producteurs, toutes les étapes de la chaîne d'approvisionnement devraient faire l'objet de contrôles, tandis que les distributeurs et les détaillants sont majoritairement contrôlés dans les États membres non producteurs. Cependant, dans les États membres producteurs, certaines étapes de la chaîne d'approvisionnement peuvent faire l'objet d'un nombre relativement plus élevé de contrôlées que d'autres. En ce qui concerne la classification et l'emballage des produits à contrôler, la majorité des contrôles visent l'huile d'olive extra vierge, ainsi que les huiles en bouteille en général.

Tests de panel et contre-évaluation

Lors des contrôles, les caractéristiques organoleptiques des huiles d'olive vierges doivent être vérifiées par des panels de dégustation agréés par les États membres. Tous les panels de dégustation agréés aux fins de contrôle des huiles d'olive au niveau national doivent également être reconnus par le Conseil oléicole international (COI). Dans les États membres qui n'ont pas mis en place des panels de dégustation sur leur territoire national, l'évaluation organoleptique est effectuée par un(des) panels de dégustation agréé(s) situé(s) dans d'autres États membres. Dans certains États membres, des analyses physico-chimiques sont également sous-traitées à des laboratoires situés dans d'autres États membres.

Lorsqu'un panel considère qu'un échantillon d'huile d'olive vierge ne correspond pas à la catégorie déclarée, deux contre-évaluations sont effectuées par d'autres panels agréés à la demande de la partie intéressée. Il convient de noter que parmi le nombre de contre-évaluations demandées dans chaque État membre, la part des contre-évaluations qui se sont révélées «favorables» aux exploitants est généralement assez faible.

Résultats des contrôles de conformité et leur notification

Malgré la diversité des cas, certaines tendances majeures peuvent être mises en évidence en ce qui concerne les principales infractions constatées sur les huiles d'olive. La commercialisation de l'huile d'olive vierge sous la désignation d'huile d'olive extra vierge, telle que détectée par des analyses chimiques et/ou une évaluation organoleptique, constitue notamment, et de loin, le type de non-conformité le plus répandu identifié en ce qui concerne les caractéristiques organoleptiques des huiles d'olive déclarées comme des «huiles d'olive extra vierges».

Les résultats des contrôles de conformité sont notifiés chaque année à la Commission européenne selon un format spécifique prévu par le Règlement (CEE) n°2568/1991.

Processus de demande de vérification

Le système de coopération et d'assistance administratives (AAC) a été impliqué récemment dans le cadre de la notification des non-conformités sur les huiles d'olive[6] présentant un intérêt transfrontalier. Par conséquent, la majorité des États membres n'ont jamais reçu de demande de vérification et ne disposent d'aucune expérience concernant les procédures de suivi de ces demandes. L'étude a révélé que le suivi d'une demande de vérification concerne: inspection officielle dans les installations concernées; échantillonnage du même produit destiné à être commercialisé dans le même État membre que celui qui a émis la demande; contrôle de toutes les étiquettes de l'exploitant concerné par la demande; envoi d'un avertissement à l'exploitant concerné; demande d'informations complémentaires sur la traçabilité du produit concerné.

Communication relative aux contrôles de conformité

L'analyse de la situation dans les États membres prise en compte dans les études de cas a permis de dégager différentes actions de mise en œuvre et parfois des points de vue divergents sur leur efficacité. Certains États membres publient chaque année les résultats des contrôles tandis que d'autres États membres ne les publient jamais. En tout état de cause, les informations relatives aux résultats des contrôles ou à des sanctions individuelles imposées ne sont jamais publiées, principalement en raison de la protection de la confidentialité des données commerciales. En outre, une attention particulière est souvent accordée à la protection du nom des exploitants visés par les activités de contrôle. Néanmoins, les médias publient parfois des informations sur des cas individuels, généralement contre la volonté des autorités compétentes. En ce qui concerne la communication des résultats des contrôles de conformité au niveau de l'UE, les résultats communiqués chaque année par les autorités compétentes des États membres à la Commission européenne ne sont pas accessibles actuellement au grand public.

Identification des besoins (Thème II)

Degré de réalisation actuelle des objectifs

Dans le cadre de l'évaluation du degré de réalisation par les contrôles de la conformité des huiles d'olive de l'objectif consistant à garantir une protection adéquate des consommateurs et des pratiques commerciales équitables dans les relations entre les entreprises et les consommateurs, il a été constaté que le cadre actuel de l'UE garantissait généralement la réalisation de ces objectifs. En outre, pour les États membres producteurs, les dispositions de l'UE relatives aux contrôles de conformité ont effectivement contribué à améliorer la qualité des produits sur le marché et à réduire la fréquence des pratiques frauduleuses. En revanche, certains États membres et associations de consommateurs considèrent que le niveau de protection des consommateurs garanti par les contrôles de conformité de l'UE sur les huiles d'olive n'est pas pleinement satisfaisant et qu'il devrait être encore amélioré.

Dans le cadre de l'évaluation du degré de réalisation par le système actuel de l'objectif consistant à garantir des conditions de concurrence équitables, un fonctionnement efficace du marché intérieur et des pratiques commerciales équitables, il a été constaté une réalisation uniquement partielle de ces objectifs. Les points de vue sur cet aspect sont très divers, étant donné qu'ils varient en fonction du contexte national spécifique. En général, les acteurs économiques des États membres producteurs affichent une satisfaction supérieure concernant les conséquences pour leur secteur de la mise en œuvre du système de contrôles de la conformité.

Problèmes/lacunes dans la mise en œuvre du système de contrôles de la conformité

Les principaux **problèmes et lacunes d'ordre organisationnel** identifiés via les études de cas concernent essentiellement la coexistence et la coordination entre plusieurs AC nationales (et dans certains États membres, également régionales/locales), en ce qui concerne la planification et la réalisation des contrôles de

[6] Conformément au Règlement (UE) n°29/2012, lorsque des irrégularités sont constatées sur une huile d'olive dont le fabricant, conditionneur ou vendeur sont situés sur le territoire d'un autre État membre, l'État membre en charge du contrôle doit envoyer une demande de vérification aux autorités compétentes des États membres concernés.

conformité. Le manque de ressources que ce soit en termes de **personnel** présentant les compétences adéquates ou de **financements appropriés** est également perçu comme un obstacle majeur à la réalisation des objectifs du système de contrôles de la conformité. Lors des contrôles, certains autres problèmes ont été identifiés, concernant la durée moyenne des contrôles de conformité jusqu'à leur achèvement final, le respect du calendrier des activités de contrôle et la prise en compte de tous les points de vente d'huiles d'olive.

En ce qui concerne le cadre législatif, les deux problèmes/lacunes suivants ont été identifiés: a) la difficulté liée à l'attribution d'une responsabilité juridique à un exploitant spécifique pour une non-conformité ou une suspicion de pratique frauduleuse détectée à la suite d'un contrôle de conformité; b) quelques États membres ont également indiqué que les sanctions en cas de non-conformité ou de pratiques frauduleuses dans le secteur de l'huile d'olive n'étaient pas prévues ou n'étaient pas conçues de manière appropriée à cette fin au niveau national.

Le problème technique **le plus important** révélé par l'évaluation, est lié à l'organisation et la réalisation de l'évaluation organoleptique. Pour certains acteurs de l'industrie, en particulier, le principal problème lié à l'évaluation organoleptique réside dans des résultats parfois incohérents entre les panels de dégustation ou même au sein d'un même panel de dégustation. Ces acteurs du secteur remettent donc en question la fiabilité de la méthode. Toutefois, pour la majorité des acteurs interrogés (notamment les autorités compétentes, mais également les associations professionnelles représentant les intérêts des producteurs), la normalisation des méthodes d'évaluation permet de considérer l'évaluation organoleptique comme une méthode objective plutôt que subjective, même si elle repose sur des personnes plutôt que des machines.

Certains **défis ont également été identifiés dans le processus de notification des résultats**. Ils sont principalement liés aux difficultés rencontrées dans le cadre de l'utilisation de la feuille de calcul pour communiquer les résultats, au calendrier de constitution du document, au processus de collecte des données auprès des autorités compétentes régionales (le cas échéant) et à la coexistence de différents systèmes, susceptibles d'être utilisés pour partager des informations relatives à des non-conformités concernant l'huile d'olive. Toutefois, il convient de noter qu'en général, le processus de notification a été jugé positivement par les autorités compétentes des États membres.

Enfin, **le processus de demandes de vérification géré via le système de coopération et d'assistance administratives** (**AAC)** est jugé positivement par les autorités compétentes des États membres. La récente décision d'utiliser ce système numérique pour la communication entre les États membres en a facilité le processus et amélioré son efficacité. Cependant, l'utilisation du système AAC pour envoyer et recevoir des demandes de vérification est relativement récente. Cela implique qu'il est encore difficile pour plusieurs autorités compétentes des États membres d'en apprécier la valeur ajoutée et les impacts à moyen terme.

Cartographie et analyse des relations entre les besoins et les instruments (Thème III)

Bonnes pratiques

Un certain nombre de bonnes pratiques ont été identifiées dans la mise en œuvre du système de vérification:

- Réalisation des contrôles dans le cadre des contrôles de conformité sur les huiles d'olive en combinaison avec des contrôles de conformité vis-à-vis d'autres dispositions.
- Répartition appropriée des tâches entre les différentes entités et/ou niveaux/zones géographiques concernés.
- Répartition appropriée des responsabilités entre les différents bureaux/autorités compétentes des États membres concernés.
- Formation du personnel, y compris organisation de sessions de formation pour le personnel des AC et formation continue des participants aux panels de dégustation.
- Présence d'un nombre suffisant de laboratoires en charge de l'évaluation organoleptique et des analyses physico-chimiques.
- Utilisation d'outils quantitatifs pour effectuer l'analyse des risques.
- Un système performant de sanctions et pénalités.

En outre, un certain nombre de bonnes pratiques ont été identifiées dans le contexte plus large du secteur de l'huile d'olive et elles apportent dans le même temps une contribution positive à l'efficacité et à l'efficience du système de contrôles de la conformité des huiles d'olive, notamment: la présence d'une coopération intra-sectorielle; l'organisation d'ateliers de formation ou l'élaboration de directives à l'intention des producteurs; l'élaboration d'une législation nationale qui réglemente des aspects spécifiques du secteur alimentaire ou du système des contrôles de la conformité, au moins dans les États membres où la production et la consommation nationales d'huile d'olive sont les plus importantes. Enfin, le développement de systèmes de traçabilité et d'autres types de bases de données contenant des informations sur le secteur de l'huile d'olive peut contribuer à la création de synergies positives entre ces systèmes et le système de contrôles de la conformité des huiles d'olive, améliorant ainsi l'efficacité du système global de contrôle.

Suggestions d'amélioration du système des contrôles de conformité

L'étude a révélé qu'en général, les acteurs du secteur de l'huile d'olive apprécient l'organisation des contrôles de conformité et reconnaissent que leur mise en œuvre au niveau national s'est améliorée au fil du temps. Néanmoins, des suggestions d'améliorations concrètes ont été formulées dans un certain nombre de domaines:

Formation du personnel: Un grand intérêt a été exprimé en ce qui concerne l'organisation de formations à l'échelle de l'UE sur la législation relative à l'huile d'olive et les contrôles de conformité, à l'intention du personnel national chargé des contrôles. L'idée sous-jacente concernant ces formations n'est pas seulement de transmettre les connaissances techniques les plus récentes et des orientations officielles au niveau de l'UE, mais également de favoriser le partage des bonnes pratiques entre les États membres ainsi que la coopération internationale.

Évaluation* organoleptique*: Les suggestions d'amélioration suivantes ont été identifiées en ce qui concerne l'organisation et la réalisation de l'évaluation organoleptique: l'introduction de marges d'incertitude; l'établissement d'échantillons de référence pour les différents types d'huiles d'olive; l'organisation de tests de compétence réguliers impliquant des panels de dégustation de différents États membres, sous la responsabilité et la coordination de la Commission européenne (afin de garantir que les évaluations organoleptiques menées au niveau de l'État membre reflètent véritablement les spécificités de la législation européenne, lorsque celle-ci diffère des normes du Conseil oléicole international). D'une manière générale, l'étude a identifié un besoin de coopération et de coordination accrues au niveau de l'UE pour faciliter la réalisation de contre-évaluations dans l'État membre d'où provient l'huile d'olive.

Informations sur l'étiquetage: Certaines autorités compétentes des États membres consultées estiment que la disposition obligatoire sur les étiquettes d'informations spécifiques telles que la date de récolte des olives ainsi que la date et le lieu de mise en bouteille de l'huile d'olive pourrait être utile pour l'organisation et la réalisation des contrôles de conformité.

Le ***système de sanctions*** a été identifié comme un domaine nécessitant des améliorations supplémentaires. Les sanctions appliquées en cas de non-conformités ou de pratiques frauduleuses dans le secteur de l'huile d'olive, sont souvent similaires à celles déjà appliquées pour d'autres produits alimentaires. Dans certains États members, elles ne sont ni prévues ni conçues de manière appropriée à cette fin au niveau national. Cependant, une harmonisation au niveau de l'UE des sanctions pour non-conformité dans le secteur de l'huile d'olive, ne reçoit généralement aucun soutien, pour des raisons de traditions juridiques nationales différentes et parce qu'il serait difficile de la justifier pour l'huile d'olive par rapport à d'autres catégories alimentaires.

L'étude s'est également penchée **sur la mise en œuvre possible de dispositions supplémentaires pour assurer la traçabilité et détecter les fraudes dans le secteur de l'huile d'olive**, lesquelles pourraient améliorer l'efficacité et l'efficience globales du système de contrôle de conformité. L'évaluation de cette question a indiqué que la mise en œuvre de systèmes de traçabilité constitue un outil potentiellement très utile pour planifier et réaliser des contrôles de conformité, ainsi que pour détecter des pratiques frauduleuses dans le secteur de l'huile d'olive. Néanmoins, étant donné la grande variabilité de l'importance liée au secteur de l'huile d'olive entre les États membres et la grande variété d'opinions sur les coûts et les avantages de cet outil, il convient d'encourager la poursuite des discussions sur ce sujet.

L'étude a également identifié des **solutions d'amélioration des approches de notification des non-conformités** à la Commission européenne, notamment en termes de simplification du format actuellement utilisé. Les éventuelles **améliorations dans la communication des résultats des contrôles de conformité des**

huiles d'olive se sont finalement rapportées aux éléments suivants: partage de l'ensemble des données entre la Commission européenne et tous les États membres; publication des résultats des contrôles de conformité au profit du grand public.

1 INTRODUCTION

The European Union (EU henceforth) is the first producer, exporter and consumer of olive oil in the world. Olive oil, and notably extra virgin olive oil, is considered as a food category at high risk of non-compliances and frauds, due to its high economic value compared to other food products. At EU level, the olive oil sector (marketing standards and market instruments) is regulated by the three following regulations:

- Regulation (EU) No 1308/2013 of the European Parliament and the Council of 17 December 2013.
- Commission Regulation (EEC) No 2568/91 of 11 July 1991.
- Commission Implementing Regulation (EU) No 29/2012 of 13 January 2012.

Olive oils must be compliant with certain quality and purity characteristics defined in the aforementioned provisions, and conformity checks play a crucial role to ensure that those high standards are complied with. Conformity checks are the key tool to ascertain and ensure that marketing standards specifically designed for a product are effectively complied with on the EU market. Moreover, a number of EU provisions are in place in order to regulate the official controls and the reporting mechanisms, which Member States should implement in the olive oil sector.

Individual Member States are responsible for organising and performing official controls along the supply chains, and national legislation defines the system of follow-up actions and sanctions, which are applied whenever non-compliances with the requirements set by EU legislation are ascertained.

The study aims at providing the European Commission with a precise understanding of how conformity checks in the olive oil sector are conducted at Member State level across the EU. The study also aims at identifying and defining actions that are required to meet the objectives of the system of conformity checks, also taking into account the aims of the marketing standards in the olive oil sector. Finally, the study conclusions aim at highlighting the main identified problems and bottlenecks of the system of conformity checks currently in place, as well as the possible solutions to those problems and bottlenecks.

The study is structured around three Themes and nine national case studies, carried out in both Member States that produce olive oils and Member States that rely exclusively on imports to meet their domestic demand for olive oils.

Theme I focuses on the description of the olive oil sector and on the analysis of the current situation on conformity checks, as regulated at EU level and implemented in all EU28 Member States; a more detailed analysis is provided for the Member States covered by national case studies.

Theme II focuses on the assessment of two key aspects: a) the extent to which the general objectives of the intervention are currently achieved; b) the identification of problems/gaps which prevent the achievement of such objectives at national level. The challenges of the conformity checks system and of the notification and verification processes are also investigated.

Theme III focuses on: a) the identification of national specificities which can be considered as best practices for the development of an effective and efficient system of conformity checks; b) the elaboration of suggestions for improving the effectiveness and efficiency of the current approach to conformity checks, also including suggestions to ensure traceability and detect frauds in the olive oil sector and the identification of suitable approaches for the notification of non-compliances regarding olive oils to the European Commission.

2 METHODOLOGICAL APPROACH

In order to achieve the objectives of the study as described at § 1, the methodology for the study is structured around **three Themes** (I, II and III) and nine national case studies, carried out both in producing Member States (*France, Greece, Italy, Portugal* and *Spain*) and non-producing Member States (*Belgium, Denmark, Germany* and *Poland*). The activities of the study are organised around **four Tasks**: Task 1 "Structuring"; Task 2 "Observing"; Task 3 "Analysing"; and Task 4 "Reporting".

2.1 Data collection strategy

The **data collection strategy** made use of multiple methods and tools to gather information from both primary[7] and secondary[8] sources, in order to collect the needed quantitative and qualitative evidence to feed the study methodology.

The bulk of the needed evidence was collected in the Member States covered by a case study, in particular as regards the collection of information on the functioning mechanisms of the conformity checks system.

The data collection methods used are the following:

1. **Desk research** played an important role to collect evidence for the assessment of all the study themes, and in particular for the descriptive part under Theme I. It includes:
    a. Collection of the relevant legislative acts.
    b. Collection of the relevant documentation.
    c. Collection of the relevant background information.
    d. Review of the available scientific and technical literature (of both general and specialist nature).
    e. Collection of the relevant datasets and mining of the available databases.
2. **In-depth interviews with competent authorities, stakeholders and independent experts** played an important role to collect evidence for the assessment of all the study themes, and in particular of Themes II and III. In-depth interviews were made with EU-level stakeholders (8 interviews) and with relevant stakeholders in the Member States covered by national case studies (56 interviews, of which 21 interviews with competent authorities and 35 with other national stakeholders). In-depth interviews aimed at collecting evidence to:
    a. Identify key sources of information.
    b. Complement the quantitative and qualitative evidence collected via desk research and surveys.
    c. Cross-check the validity and reliability of evidence collected.
    d. Understand the organisation of the system of conformity checks and its functioning mechanisms, in order to perform the analyses under study Themes II and III.
3. **Survey of competent authorities** (7 respondents in producing Member States[9] and 16 respondents in non-producing Member States[10]), mainly aimed at:
    a. Collecting evidence on the organisation of the system of conformity checks in the olive oil sector.
    b. Collecting evidence on the implementation of conformity checks at Member State level and on the critical issues that can affect the effectiveness and/or the efficiency of these checks.
    c. Collecting insights for the elaboration of solutions aimed at improving the effectiveness/efficiency of conformity checks in the olive oil sector.

[7] Competent authorities, stakeholders and independent experts.
[8] Legislative acts, documentation, literature, datasets.
[9] *Cyprus, France, Greece, Italy, Portugal, Slovenia, Spain*.
[10] *Austria, Belgium, Czechia, Denmark, Estonia, Finland, Germany, Hungary, Ireland, Latvia, Lithuania, Netherlands, Poland, Slovakia, Sweden, United Kingdom*.

4. **Focus group,** aimed at collecting useful insights for the elaboration of suggestions for improving the effectiveness and efficiency of the system of conformity checks in the olive oil sector under Theme III. Participants to the focus group included:
    a. Officials of competent authorities at Member State level[11] in charge of planning and the implementation of control and cooperation activities (e.g. staff responsible for the definition and implementation of risk analysis, for the management of the notification of non-conformities to the European Commission, etc.).
    b. Representatives from the industry[12].

2.2 Methodology for Theme I - Analysis of the organisation and functioning of the olive oil sector

Theme I focused on the **description of the olive oil sector**, with special attention to the conformity checks system. Theme I includes:

a. The analysis and overall description of the current situation on conformity checks, as **regulated at EU level and implemented in all EU28 Member States**. This is preceded by the analysis and description of the organisation and functioning mechanisms of the olive oil sector.
b. A comprehensive description and analysis of the current situation on conformity checks as implemented in the **Member States selected for the case studies.**

The overall description and analysis of the current situation on conformity checks covered the following specific aspects:

1. Description of the functioning of the olive oil sector at EU level.
2. Description of the key relevant provisions.
3. Description of the system of conformity checks at EU and Member State level.
4. Analysis of the main differences in the organisation and implementation of conformity checks at national level between Member States producing olive oils and Member States not producing olive oils.

2.3 Methodology for Theme II - Identification of needs

The analysis carried out under Theme II is structured around three main issues to be investigated:

- (1) Extent to which the objectives of the EU framework regulating conformity checks in the olive oil sector are currently achieved. The general objectives of the intervention may differ for each type of stakeholder; therefore, objectives related to consumers, business stakeholders (at all the levels of the supply chain) and competent authorities are taken into account.
- (2) The identification of the operational requirements needed to meet the objectives pursued through the implementation of conformity checks in the olive oil sector.

  The identification of problems/gaps at national level affecting the organisational, legal, technical and financial aspects of the system of conformity checks on olive oils.
- (3) The identification of needs that are currently unsatisfactorily addressed or not addressed.

  The identification of challenges related to the verification process and to the notification process.

[11] Producing Member States: *France, Italy, Spain* (including Andalusia Autonomous Community); non-producing Member States: *Austria, Belgium, Germany, Poland*.
[12] One sectoral association at national level and one individual company.

2.4 Methodology for Theme III - Mapping and analysis of the relationships between needs and instruments

The assessment made under Theme III is mainly based on the results of the analysis under Themes I and II and on further elements emerged from the focus group. Taking into account the **specific features of national supply and consumption of olive oils** and the essential **distinction between producing and non-producing Member States** (as investigated under Theme I), the assessment aimed at identifying **national specificities in the organisation and functioning of the system of conformity checks on olive oils** which can be considered as **"best practices"** for the development of an effective and efficient system of conformity checks, on the grounds of their actual performance and of their replicability in different institutional and operational environments.

In addition, the assessment under Theme III focused on two other key aspects:

1. The elaboration of **suggestions for improving the effectiveness and efficiency** of the current approach to conformity checks.
2. Finally, the **identification of suitable approaches** for the notification of results of conformity checks on olive oils to the European Commission.

2.5 Approach to the selection of case studies

Nine case studies were carried out, five of which on Member States producing olive oils (*France, Greece, Italy, Portugal*, and *Spain*) and four on non-producing Member States (*Belgium, Denmark, Germany*, and *Poland*). The selection of Member States covered by case studies was made with the aim to **allow a good representativeness of the EU olive oil sector** in terms of both production and consumption.

In terms of **consumption**, the nine selected Member States together represent 90.7% of the EU consumption of olive oils. Traditionally, the most important producing Member States are also those where consumption of olive oils is largely concentrated: the producing Member States covered by case studies indeed account for an aggregated share of around 85% of the total olive oil consumption in the EU, while the selected non-producing Member States together account for an additional 5.9% share. Detailed figures and shares on the total EU consumption for the selected Member States are illustrated in Table 2.1.

Table 2.1 – Consumption of olive oils in the Member States covered by case studies, average 2015/16 -2017/18 (1,000 tonnes and % share on EU total)

Member States	Average 2015/16-2017/18	% on EU total
Producing Member States		
Italy	534	34.50%
Spain	471	30.40%
Greece	125	8.07%
France	112	7.22%
Portugal	72	4.63%
Total consumption of producing MS covered by case studies	*1,314*	*84.82%*
Non-producing Member States		
Germany	63	4.04%
Belgium	16	1.01%
Poland	8	0.52%
Denmark	5	0.35%
Total consumption of non-producing MS covered by case studies	*92*	*5.92%*
Total consumption of Member States covered by case studies	**1,405**	**90.74%**
Total consumption – EU28	**1,559**	**100.00%**

Source: International Olive Council

In terms of **production**, the five producing Member States selected as case studies cover almost the entire EU production of olive oils (99.5%), as illustrated in Table 2.2.

Table 2.2 – Production of olive oils in Member States covered by case studies, average 2015/16 -2017/18 (1,000 tonnes)

Member States	Average 2015/16-2017/18	% on EU total
Spain	1,318	63.14%
Italy	362	17.34%
Greece	287	13.75%
Portugal	104	5.00%
France	5	0.23%
Total production of producing Member States covered by case studies	**2,076**	**99.47%**
Total production – EU28	**2,087**	**100.00%**

Source: International Olive Council

2.6 Overall approach to case studies

The case studies provided more in-depth analysis of the issues under study, focusing in particular on the description of the implementation of the conformity checks system at national level, on the identification of the related bottlenecks and best practices, as well as of possible improvements to ensure that the objectives of the system of conformity checks are met.

The information obtained from the case studies completed the information collected through the other data collection activities (see § 2.1) and formed part of the evidence used under the three study themes. While the general methodology for carrying out case studies was based on the methodology for investigating the three study themes (see § 2.2, 2.3 and 2.4), a number of additional **specific aspects was investigated in the Member States covered by the case studies**. In particular, case studies played a key role in:

- Collecting data on the current implementation of conformity checks at Member State level (Theme I).
- Exploring the implications of the current system of conformity checks for different typologies of stakeholders (Theme I).
- Identifying needs that are currently not addressed or unsatisfactorily addressed (Theme II).
- Investigating operational problems and gaps (Theme II) and best practices at Member State level (Theme III).

3 THEME I – ANALYSIS OF THE ORGANISATION AND FUNCTIONING OF THE OLIVE OIL SECTOR

3.1 Functioning of the olive oil sector: short description

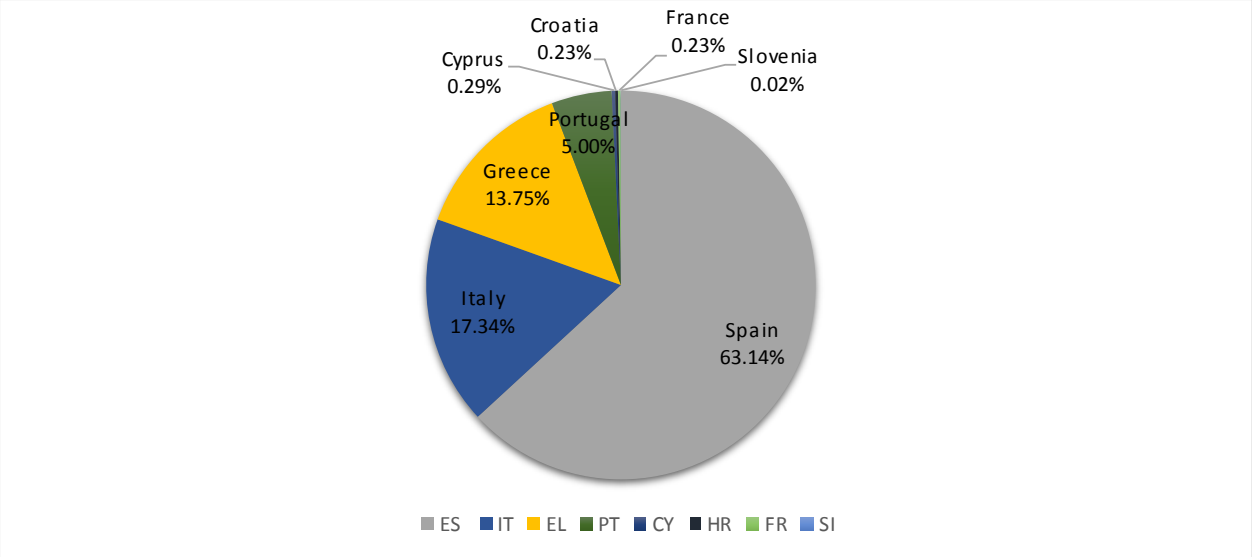
3.1.1 Production

Over the last three marketing years (2015/16 – 2017/18), the EU has been the largest producer of olive oil at global level, accounting for 69% of the world production. According to data of the International Olive Council (IOC)[13], the EU produced 2 million tonnes of olive oil, on average, each year.

Olives are a typical crop of the Mediterranean area and are produced in the southern Member States of the EU. More specifically, olive groves are found in nine EU Member States: *Spain, Italy, Greece, Portugal, France, Slovenia, Croatia, Cyprus* and *Malta*, accounting for a total of around 5 million hectares of olive groves, most of which are devoted to growing olives for olive oil production. *Spain* accounts for more than half of the total EU area under olive groves and it also has the largest average unit olive grove size.

Spain is the biggest producer of olive oil in the EU: from 2015/16 to 2017/18, on average, it accounted for 63% of the whole EU production. In the last 3 years, the average production in *Spain* reached 1.3 million tonnes per year. Almost the totality of the production is obtained in four Member States: *Spain* (63%), *Italy* (17%), *Greece* (14%) and *Portugal* (5%) together cover around 99% of the production in the EU, while the aggregated production of the other producing Member States (i.e. *France, Slovenia, Croatia, Cyprus* and *Malta*) accounts for less than 1% of the total EU olive oil production, as illustrated in Figure 3.1.

Figure 3.1 – National shares of olive oil production in the EU, average 2015/16 - 2017/18

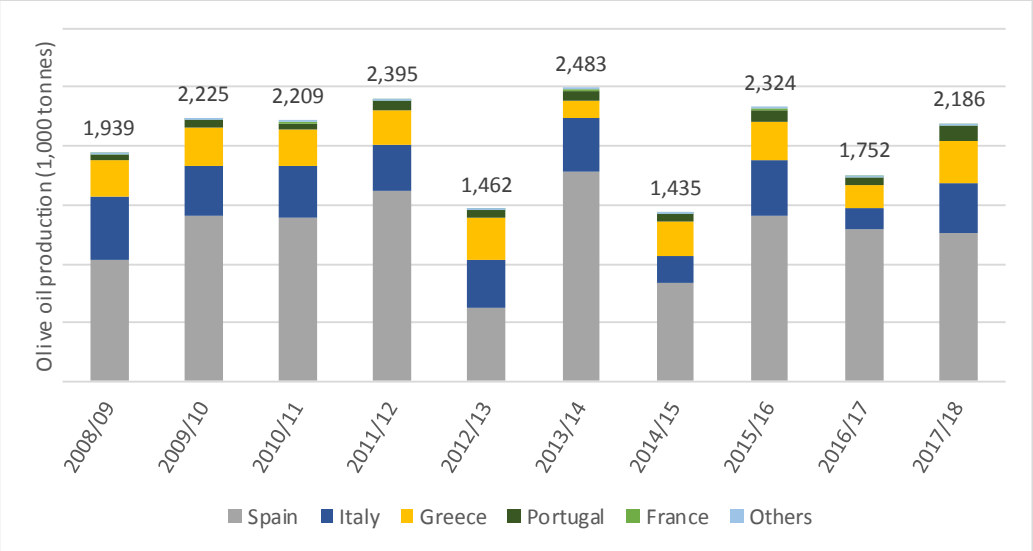


Source: International Olive Council

Since the production of olive oil largely depends on factors like alternate fruit bearing of olive trees and climatic conditions (rain in particular) at specific physiologic stages of the fruit development, the production of olive oil is subject to great variability and it is difficult to identify a trend overtime (Figure 3.2). However, the share of production of the different Member States appears to remain quite constant in time.

[13] IOC data referring to marketing year 2017/18 are provisional data.

Figure 3.2 – Olive oil production in the EU between 2008/09 and 2017/18

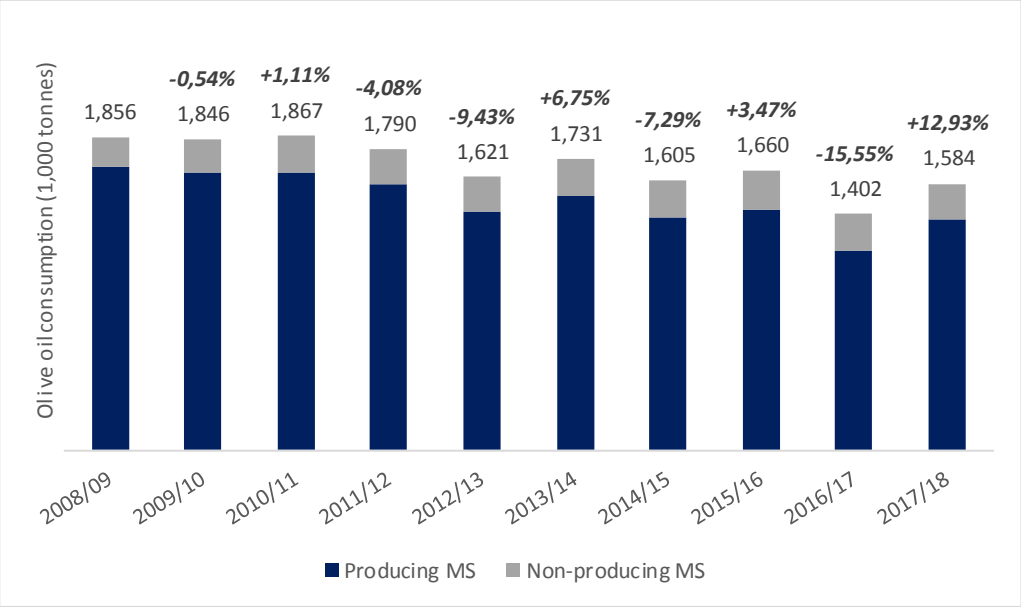


Source: International Olive Council

3.1.2 Consumption

Since the use of olive oil is originally linked to the gastronomic tradition of the Mediterranean area, producing Member States are also the major consumers of the product, as illustrated in Figure 3.3. In particular, *Italy* and *Spain* are the most important consumers, each accounting for around one third of the total olive oil consumption in the EU. *Greece* continues to lead the ranking of per capita consumption of olive oil, with 12.8 kg in 2016 (international Olive Council). Among non-producing Member States, *United Kingdom* and *Germany* consume the largest amount of olive oil: each country accounts for around 4% of the total EU consumption. Overall, Figure 3.3 indicates a decrease in the total consumption of olive oil over the last years. Considering the period of ten years indicated in Figure 3.3, consumption in 2017/18 decreased by around 15% with respect to the first year considered (2008/09).

Figure 3.3 – Consumption of olive oil in the EU between 2008/09 and 2017/18 (1,000 tonnes)



Source: International Olive Council

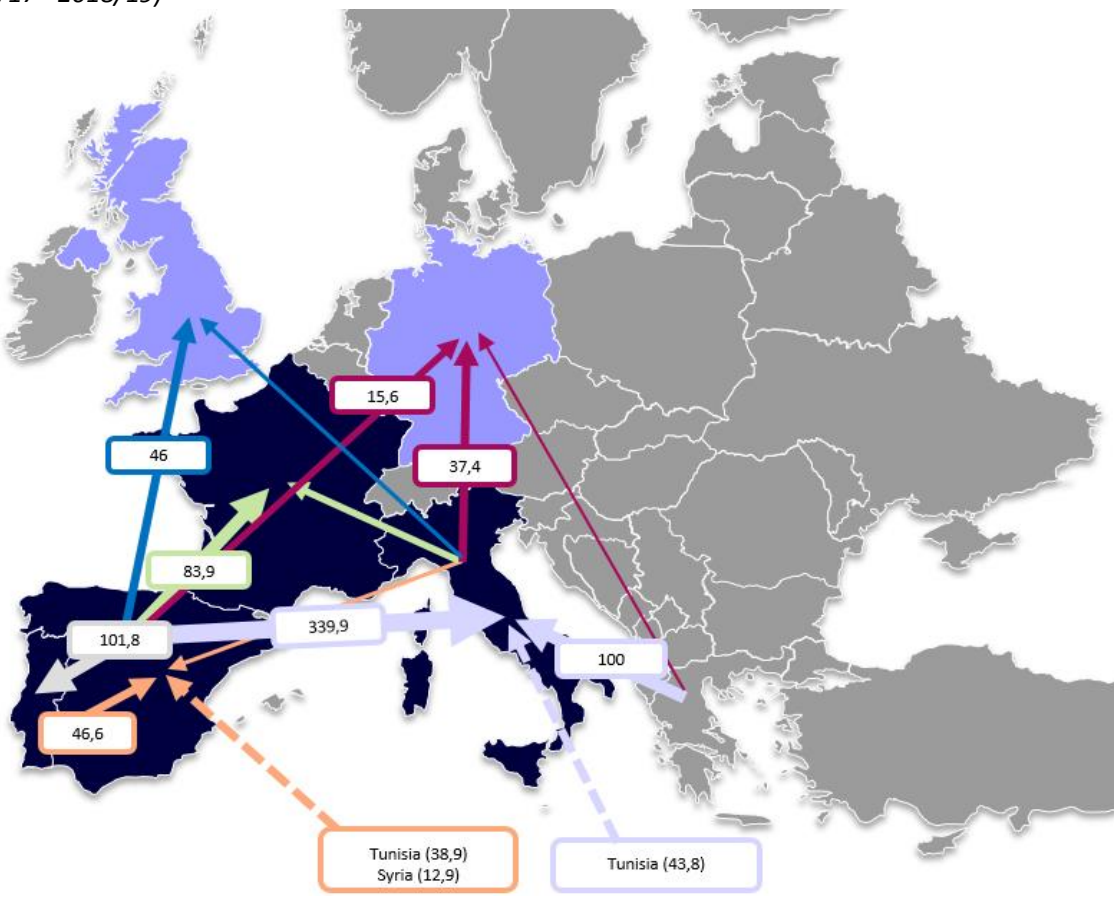
3.1.3 Trade

Although olive oil production levels ensure self-sufficiency, the EU has a leading role on the international market, both as an importer and an exporter of olive oil.

According to Eurostat (Table 3.1), EU Member States imported in total (i.e. intra-EU plus extra-EU imports) an average of 1.1 million tonnes of olive oil between 2016 and 2018. The large majority of the imports were intra-EU ones (89%), while only a small part of the olive oil imported by EU Member States came from third countries (11%). Overall, EU imports of olive oils from third countries mainly come from Tunisia (69% of the total import from third countries), Syria (10%), Turkey, Argentina and Morocco (around 5% each).

Portugal, Italy and *France* mainly import olive oil from *Spain* (*Spain* accounts for 96% of the imports by *Portugal*). Also *Greece* imports a substantial volume of olive oil from *Spain* (33% of total imports), but its leading supplier is *Italy* (49% of total imports). *Spain* imports olive oil mainly from *Portugal* (37%) and Tunisia (26%), but smaller quantities of olive oil are imported also from other countries, such as Syria (10%), *Italy* (7%) and Argentina (5%). *Spain* has by far the largest share of imports from third countries (51%) among EU Member States. *Italy* is the Member State importing the most substantial volume of olive oil: 65% of Italian olive oil imports come from *Spain*, 20% from *Greece*, 9% from Tunisia and 5% from *Portugal*. Figure 3.4 illustrates the main import flows for the six biggest importing Member States (four producing Member States and two non-producing Member States).

Figure 3.4 – Main import flows for the major importing Member States, thousand tonnes (average marketing years 2016/17 - 2018/19)



Source: Eurostat

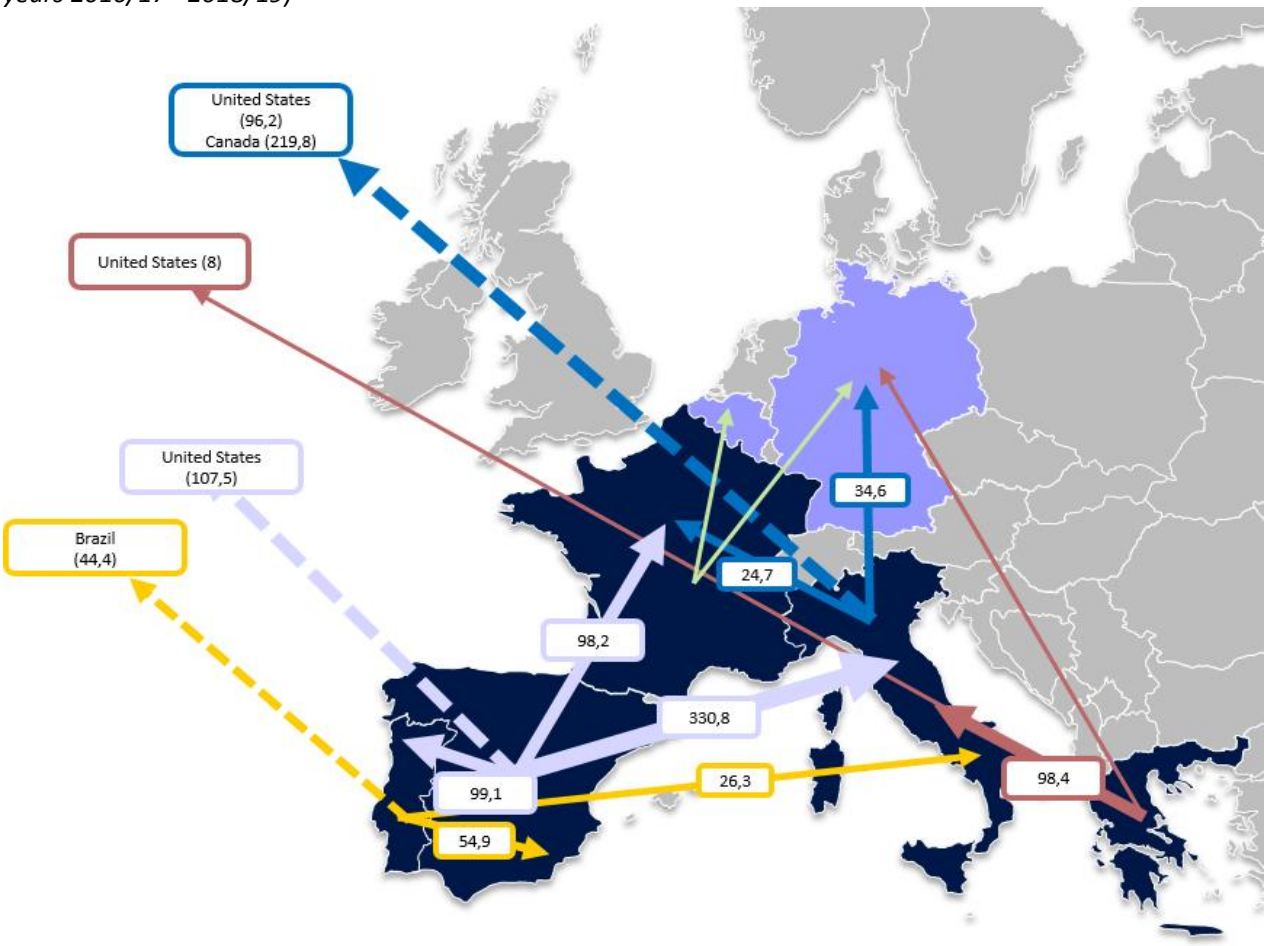
Table 3.1 – Imports of olive oil (tonnes) in the EU, average marketing years 2016/17 - 2018/19

Member States	Total import (average 2016/17 - 2018/19)	Intra EU imports	% intra EU imports (average 2016/17 - 2018/19) on total	Extra EU imports	% extra EU imports (average 2016/17 - 2018/19) on total
Italy	507,654	459,342	90%	48,313	10%
Spain	131,064	59,272	45%	71,792	55%
France	120,579	112,794	94%	7,785	6%
Portugal	104,126	101,894	98%	2,232	2%
United Kingdom	67,724	67,431	100%	293	0%
Germany	63,285	62,674	99%	610	1%
Belgium	19,763	17,938	91%	1,825	9%
Netherlands	19,422	18,499	95%	923	5%
Austria	10,346	10,313	100%	33	0%
Sweden	9,727	9,546	98%	181	2%
Poland	8,481	8,479	100%	2	0%
Czechia	7,022	7,021	100%	2	0%
Denmark	5,530	5,471	99%	59	1%
Ireland	4,472	4,470	100%	2	0%
Croatia	3,667	3,666	100%	1	0%
Others	26,215	26,116	100%	99	0%
EU 28	**1,100,161**	**966,010**	**88%**	**134,151**	**12%**

Source: Eurostat

Table 3.2 shows that the main exporting Member States are the major producing countries. Some exports also originate from non-producing Member States: these trade flows are most likely to concern re-export of olive oil originating from other Member States or third countries, which is imported in bulk and then bottled for export by non-producing Member States. In volume terms, intra-EU exports prevail over exports towards third countries. The relative importance of intra-EU and extra-EU export shares varies across Member States. Differently from the other leading EU exporters of olive oil, *Italy* mainly exports olive oil to third countries (accounting for 64% of Italian exports - the US alone account for 32%of the total Italian exports – 50% of the total Italian export to third countries). *Spain* also exports to the US (12% of its total exports – 36% of its exports to third countries), but the most important export market for Spanish olive oil is *Italy* (35%). Also *Greece*, which mainly exports to *Italy* (which accounts for 67% of its total exports), destines a share (6%) of its olive oil exports to the US. 40% of olive oil exported from *Portugal* is destined to *Spain*, while 29% goes to Brazil and 18% to *Italy*. Figure 3.5 shows the main export flows for the major exporting Member States, namely *Spain, Italy, Greece, Portugal*, and *France*.

Figure 3.5 – Main export flows for the major exporting Member States, thousand tonnes (average marketing years 2016/17 - 2018/19)



Source: Eurostat

Table 3.2 – Exports of olive oil (tonnes) in the EU, average marketing years 2016/17 - 2018/19

Member States	Total export (av. 2016/17 - 2018/19)	Intra EU exports	% intra EU exports (av. 2016/17 - 2018/19) on total	Extra EU exports	% extra EU exports (av. 2016/17 - 2018/19) on total
Spain	1,126,181	819,927	73%	306,254	27%
Italy	333,516	138,486	42%	195,031	58%
Greece	179,072	159,945	89%	19,126	11%
Portugal	173,112	119,526	69%	53,586	31%
France	11,443	8,967	78%	2,475	22%
Germany	6,826	6,161	90%	666	10%
Belgium	5,304	4,804	91%	500	9%
Austria	3,258	2,642	81%	616	19%
Netherlands	3,116	1,799	58%	1,317	42%
United Kingdom	2,500	1,970	79%	530	21%
Czechia	1,571	1,566	100%	5	0%
Lithuania	1,285	208	16%	1,077	84%
Poland	925	91	10%	834	90%
Estonia	455	115	25%	339	75%
Latvia	431	336	78%	95	22%
Others	364,303	287,007	79%	77,296	21%
EU28	**1,828,757**	**1,245,765**	**68%**	**582,992**	**32%**

Source: Eurostat

3.2 Relevant legislation at EU level

Specific EU legislation ensures that the objectives of the system of conformity checks on olive oils are met. The relevant regulatory framework has linkages with EU quality policy – and with legislation establishing EU marketing standards for olive oils in particular – as well as with EU legislation aimed at combatting fraudulent practices and measures establishing *ad hoc* communication networks among competent authorities dealing with food products. More specifically, the relevant EU legislation includes:

- **EU measures aimed at ensuring a high level of quality of agricultural and food products**. **EU marketing standards** are a set of rules to ensure that the market is supplied with agricultural products of a standardised and satisfactory quality to meet consumers' expectations, to facilitate trade and to ensure a level playing field for EU producers. **Conformity checks on olive oils** are tightly linked with EU marketing standards for the same products since they are the key tool to ascertain and ensure that such standards are effectively complied with on the EU market. In the specific case of olive oils, the system of conformity checks covers a number of aspects including the risk analysis, the determination of the number of checks, the performance of actual checks (e.g. sampling, organoleptic assessment, etc.), the system of penalties, the notification process and the cooperation among Member States. At EU level, three main Regulations establish marketing standards for olive oil and rules for the related conformity checks: Regulation (EU) No 1308/2013 of the European Parliament and the Council of 17 December 2013; Commission Regulation (EEC) No 2568/91 of 11 July 1991; and Commission Implementing Regulation (EU) No 29/2012 of 13 January 2012. These Regulations define, *inter alia*, the characteristics and requirements for marketing olive oils in the EU (e.g. the quality parameters defining the different categories of olive oils).
- **EU measures aimed at combatting fraudulent practices**. From this perspective, the organisation and the implementation of conformity checks on olive oils throughout the EU contribute towards the identification and the prevention of fraudulent practices in this specific market segment, in line with the relevant general principles and provisions on fraudulent and deceptive practices that are laid down in key EU legal acts, including Regulation (EC) No 178/2002 and Regulation (EU) 2017/625 (which will replace Regulation (EC) No 882/2004 on 14 December 2019).
- **EU measures establishing *ad hoc* communication networks among competent authorities dealing with food products** with a view to facilitating exchanges of information on cross-border infringements of EU food law (e.g. Administrative Assistance and Cooperation system - AAC system that the European Commission established with the Implementing Decision (EU) 2015/1918 of 22 October 2015).

3.2.1 Identification of different instruments

3.2.1.1 Regulation (EU) No 1308/2013 (CMO)

Since 2008, the olive oil regime is integrated into the Common Market Organisation (CMO), regulated by **Regulation (EU) No 1308/2013** ("single CMO regulation")[14]. Applicable to all agricultural sectors listed under Article 1(2), this Regulation further defines the different categories of olive oils in Part VIII of Annex VII.

The provisions that are specific to olive oil are the following:

- Article 6(c)(iii) establishes that the olive oil **marketing year** runs from 1 July to 30 June of the following year[15].
- Article 7(i)(g) establishes the **reference thresholds** for olive oil.

[14] Regulation (EU) No 1308/2013 of the European Parliament and the Council of 17 December 2013 on a common organisation of the markets in agricultural products, repealing Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007.

[15] In practice, however, the marketing year applied for olive oils runs from 1 October to 30 September.

- Articles 17(b) and 18 regulate **aid for private storage**, which may be granted to private operators for product storage in case of a difficult market situation.
- Articles 29-31 define rules for **aid to the olive oil sector** through olive oil work programmes, aiming at improving the following areas: markets; environmental impact; competiveness; production quality; the traceability system; the certification and protection of the quality of olive oil and table olives; and, dissemination of information relating in particular to the monitoring of the quality of olive oils sold to final consumers.
- Article 78(i)(g), in conjunction with Annex VII, Part VIII, lays down a set of specific **definitions, designations and sales descriptions** that are relevant for the olive sector and that can only be used by products that fully comply with them.
- Article 159(a)(ii) and (b) on **mandatory recognition of producers' organisations and inter-branch organisations** by Member States and Article 162 on additional objectives that can be pursued by **inter-branch organisations**.

3.2.1.2 Commission Implementing Regulation (EU) No 29/2012

Commission Implementing Regulation (EU) No 29/2012 of 13 January 2012 lays down the marketing rules for olive oil. The regulation covers the following aspects:

- **Packaging**: olive oil must be marketed to the final consumer in packaging of a maximum capacity of 5 litres. It must be fitted with an opening system that can no longer be sealed after the first time it is opened. Member States may set a maximum capacity exceeding 5 litres in case of oils intended for consumption in restaurants, hospitals, canteens and other similar collective establishments (Article 2).
- **Labelling:** labelling of olive oils must be made in accordance with general food labelling rules, currently included in Regulation (EU) No 1169/2011. As regards the designation or trade name under which olive oils can be sold, the specific rules laid down for olive oil in Regulation (EU) No 1308/2013 (article 3, first paragraph) apply (see above § 3.2.1.1). In addition to that, Regulation (EU) No 29/2012 regulates additional mandatory labelling aspects of olive oil, including designation of origin for extra virgin olive oil and virgin olive oil (Article 4) and special storage instructions (Article 4a), optional indications (e.g. “first cold pressing”, “cold extraction”, etc.) (Article 5), and specific labelling rules for olive oil when used in blends with other vegetable oils and as ingredient in other foodstuffs (Article 6). In general, a label should not mislead consumers regarding the characteristics of oils (composition, quality, origin, category, method of production, etc.).
- **Cooperation between operators and control authorities**: concerned operators (manufacturer, packer or seller) must supply documentation in support of certain labelling information (e.g. designation of origin, optional indications, etc.) upon request of the Member State where the operator is located (Article 7).
- **Control of labelling:** In accordance with Article 8, Member States must check the conformity between the trade name of the product on the label of olive oils with the contents, relying on the risk-based approach for conformity checks pursuant to Regulation (EEC) No 2568/91. If irregularities are detected and the manufacturer, packer or seller shown on the label is located in another Member State, the control body of the Member State concerned must lodge a verification request in line with the terms described in Article 8(2) and (3).
- **Cooperation between Member States and the entity sending the verification requests**: Member States make available to the European Commission the name and address of the body or bodies responsible for monitoring the application of the Regulation so that all Member States can be subsequently informed (Article 8(1)). A Member State, pursuant to a verification request, takes samples before the end of the month following that of the request and verifies the truthfulness of the indications on the concerned labelling. The request of verification can be sent by the European Commission, operators’ organisations, or the control body of another Member State (Article 8(2) and (3)). The Member State concerned by a request of verification must inform the requester of the

reference number allocated to it and of the action taken before the end of the third month following that of the request (Article 8(4)).

- Member States that received or started a verification request must notify to the European Commission a **report containing the information on verifications**, including the received requests for verification, the verifications undertaken and those still underway from previous years, the follow-up to the verifications carried out and the penalties applied (Article 10).
- **Penalties**: By the end of 2002, Member States had to communicate to the European Commission the measures to implement effective, proportionate and dissuasive penalties at national level if Regulation (EU) No 29/2012 is breached (Article 9(1)).

3.2.1.3 Commission Regulation (EEC) No 2568/91 of 11 July 1991

One of the key aims of **Regulation (EEC) No 2568/91 of 11 July 1991** on the characteristics of olive oils and olive-pomace oils and on the relevant methods of analysis is to ensure that the olive oil marketed is consistent with the specific characteristics applicable to the declared category (Article 2).

The Regulation deals with the following aspects:

- Olive oils must be **compliant with certain quality and purity characteristics** as defined in Annex I of the Regulation, depending on the specific product category considered[16]. Verification of compliance with such characteristics is to be determined through conformity checks to be performed by national competent authorities, in relation to which the Regulation sets out rules for the **sampling** and provides the **analytical methods to be used** (Article 2(1), 2(3) and the Annexes to the Regulation referred to in those provisions). In Annex Ib to the Regulation a flow chart is also drawn out, in order to facilitate the decision-making process at Member State level as to establish whether an olive oil sample is consistent with the category declared.
- Conformity checks at Member State level must be based on a **risk analysis** performed with appropriate frequency (Article 2a(2)). The Regulation requires Member States to define **criteria for assessing the risk of non-conformity** (Article 2a(4)(a)). The risk can be assessed following several criteria including the features of oil (e.g. category, period of production, price, blending, packing operations, storage, the country of origin, the country of destination, the means of transport or the volume of the lot); the features of operators (e.g. position in the marketing chain, the volume and/or value of marketed oils, the range of oil categories marketed, other type of business carried out - milling, storage, refining, blending, packing or retail sale); findings of previous checks; the reliability of operators' quality assurance systems or self-checking systems; the place where the check is carried out, in particular if it is the first point of entry into the Union, the last point of exit from the Union or the place where the oils are produced, packaged, loaded or sold to the final consumer; any other information that might indicate a risk of non-compliance (Article 2a(3)). Based on the criteria used by Member States, the risk analysis allows authorities to set the **number of operators or lots and/or quantities that will be subject to a conformity check.** It is nonetheless laid down in the Regulation that at least one conformity check per thousand tonnes of olive oil marketed in the Member State is to be carried out per year (Article 2a(4)(b)).
- The organoleptic characteristics (part of the quality characteristics) of virgin olive oils must be verified by **tasting panels** approved by Member States (Article 2(2)). When a panel deems that the sample is not of the declared category, at the interested party's request, two counter-assessments by other

[16] The Regulation defines the characteristics of the following typologies of olive oil: extra virgin olive oil, virgin olive oil; lampante olive oil; refined olive oil; olive oil composed of refined and virgin olive oils; crude olive-pomace oil; refined olive-pomace oil; and olive-pomace oil. As described in Annex I, each category of olive oil should present a maximum level of the following key parameters: fatty acid ethyl esters; acidity; peroxide index; wax content, contents of 2-glyceril monopalmitate; contents of stigmastadienes; difference between ECN42 (HPLC) and ECN42; contents of K232, K268/K270; delta-K; organoleptic assessment -median defect and fruity median-; fatty acid composition; total transoleic isomers; total translinoleic and translinolenic isomers; sterols composition; total sterols; and contents of erythrodiol and uvaol.

approved panels are carried out. At least one counter-assessment must be carried out by a panel approved by the producer Member State concerned. A number of Member States have approved tasting panels based on their national territory (see § 3.3.6.1), set up by professional or inter-branch organisations; each of those Member States draws up a list of approved tasting panels (Article 4(3)). If a Member State is unable to set up tasting panels it can call on a tasting panel approved in another Member State (Article 4(2)).

- Where it is found that an oil does not correspond to its category description, the Member State concerned is required to apply **effective, proportionate and dissuasive penalties** taking into account the seriousness of the irregularity. In case checks reveal significant irregularities, Member States must increase the frequency of checks in relation to the marketing stage, oil category, origin, or other appropriate criteria (Article 3).
- Member States are **required to notify to the European Commission the measures implementing Regulation (EEC) No 2568/91** on an annual basis, as per Article 8(2). The report sent by Member States to the European Commission shall at least contain the results of the conformity checks carried out on olive oils during the previous calendar year. Results of conformity checks must be presented as per the templates set out in Annex XXI.

3.3 The system of conformity checks at Member State level

This section provides a comprehensive description of the working mechanisms of the system of conformity checks at national level across the EU. This section is based on the analysis of the evidence collected across the EU 28 Member States through two main tools: a) the survey of Member States' competent authorities (§ 2.1) and b) the evidence collected at national level in Member States covered by case studies with different data collection tools (§ 2.5 and § 2.6). Evidence was made available by 23 Member States in total.

3.3.1 Administrative organisation and competent authorities or bodies involved in the conformity checks system

In the large majority of Member States **the implementation of conformity checks on the olive oil sector is allocated to the competent authority dealing with the food or agricultural sector, generally a ministerial entity or an agency within a Ministry**.

Nevertheless, **some exceptions were identified**: in *Belgium* the Directorate General of Economic Inspection (FPS Economy) is the key entity responsible for carrying out checks on the composition and designation of foodstuffs, as well as on deception and economic fraud in the food sector, and also deals with conformity checks for olive oils. In *France*, the General Directorate for Competition Policy, Consumer Affairs and Fraud Control (*Direction générale de la concurrence, de la consommation et de la répression des frauds – DGCCRF*) is the only competent authority for conformity checks and operates under the responsibility of the Ministry of Economy.

In some Member States (e.g. *Italy* and *Poland*) **special agencies created in the framework of the Ministry of Agriculture are responsible for quality of agricultural and food products,** including olive oils. In *Poland,* the Agricultural and Food Quality Inspection (AFQI) operates under the control of the Ministry of Agriculture and Rural Development; in *Italy,* the Central Inspectorate for Quality Controls and Antifraud of Foodstuff and Agricultural Products (ICQRF) is an inspection body created within the Ministry of Agriculture (MIPAAFT). In other Member States, a key role is played by independent agencies, like in *Portugal* where the *Autoridade de Segurança Alimentar e Económica* (ASAE) is the law enforcement agency with police powers for marketing surveillance.

In several small and/or non-producing Member States, only one authority is in charge of the conformity checks system, and no departments, programmes or national legislation specific to olive oil can be found. In some of those Member States (e.g. *Denmark*, *Belgium*) checks are undertaken by employees who also work on other tasks, such as checking compliance with EU marketing standards for products other than olive oils and with food law in general (this is the case of *Denmark*), or who operate within the framework of general surveillance of the market or other general activities (like in *Belgium*). However, there are also non-producing

Member States (e.g. *Germany*) where multiple competent authorities are involved in conformity checks on olive oils[17]. Table 3.3 provides an overview of the main competent authorities involved in the conformity checks system in the Member States, which replied to the survey of national competent authorities or which are covered by case studies.

Table 3.3 – Main competent authorities involved in the conformity checks system

Member State	Competent authority
Austria	Federal Ministry for Sustainability and Tourism (in charge also of Agriculture) in cooperation with Agency for Health and Food Safety
Belgium	FPS Economy General Direction Economic Inspection & General Direction Quality and Safety (Ministry of Economy)
Cyprus	Ministry of Health
Czechia	CAFIA - Agriculture and food inspections authority (a state administration body subordinated to the Ministry of Agriculture)
Denmark	Danish Veterinary and Food Administration (DVFA) (under the Ministry of Environment and Food)
Estonia	Veterinary and Food Board (under the Ministry of Rural Affairs)
Finland	Finnish Food Authority, Food Safety Department, Chemical Food Safety Unit, Food Composition Section
France	*Direction générale de la concurrence, de la consommation et de la répression des frauds* - DGCCRF (under the Ministry of Economy)
Germany	BMEL (Ministry of Food and Agriculture)
Greece	Hellenic Food Authority (EFET) under the Ministry of Economy
Hungary	National Food Chain Safety Office Food and Feed Safety Directorate (supervised by the Ministry of Agriculture)
Ireland	Ministry of Agriculture Food and Marine
Italy	Ministry of Agriculture
Latvia	Ministry of Agriculture - Food and veterinary service
Lithuania	State Food and Veterinary Service
Netherlands	Ministry of Agriculture, Nature and Food Safety
Poland	The Agricultural and Food Quality Inspection (AFQI) (under the Ministry of Agriculture and Rural Development)
Portugal	ASAE (Food Safety Authority)
Slovakia	State Veterinary and Food Administration
Slovenia	Administration of the Republic of Slovenia for Food Safety, Veterinary Sector and Plant Protection
Spain	Several competent authorities coordinated by the Ministry of Agriculture, Fisheries and Food (MAPA)
Sweden	National Food Agency (*apha*)
United Kingdom	APHA (Animal and Plant Health Agency)

Source: Areté elaboration on the results of the survey of national competent authorities and case studies.

[17] In the case of *Germany*, for instance, besides federal competent authorities (Federal Ministry of Food and Agriculture (BMEL) and Federal Office for Agriculture and Food (BLE)) also the competent authorities of the 16 federal states (*Länder*) are involved in conformity checks on olive oils.

In a number of cases, the **coordination of conformity checks for olive oils lies with one or more central competent authorities, but a key role is also played by local entities**. However, the range of activities in charge of local entities varies from Member State to Member State. In some Member States the implementation of certain activities is allocated to the decentralised level, while in other Member States also decisions and coordination activities are distributed at several levels. The first group of Member States includes *Italy*, where the Ministry of Agriculture is the competent authority for conformity checks on olive oil, but several activities (e.g. some tasks of the risk analysis, the inspection of operators and the decisions on penalties) are carried out by its decentralised local offices (i.e. 10 regional offices and 19 local offices). Also in *Portugal* the national food safety agency ASAE relies on several operational units that are scattered across the national territory, and whose activity is coordinated and directly supervised by three Regional Units (North, Centre and South). Within the second group of Member States, i.e. those where also the coordinating activities are distributed at regional level, there is *Germany*, where the federal states (*Länder*) are responsible for the implementation of controls on foodstuffs; the related reporting is undertaken by the Federal Office for Agriculture and Food (BLE), but the Federal Ministry of Food and Agriculture (BMEL) assumes the role of coordinator. However, the definition and implementation of penalties is performed by federal states. Also in *Spain* the overall responsibility for organisation and operation of the official control system is shared between 20 competent authorities: the Ministry of Agriculture, Fisheries and Food (MAPA), the Ministry of Health, Social Welfare and Consumption (MSCBS), the Ministry of Industry, Commerce and Tourism (MICT), and the 17 Autonomous Communities / *Comunidades Autónomas* (AACC). Autonomous Communities are the regional competent authorities for several aspects of the conformity checks system: they are the ones planning and performing inspections, deciding and applying penalties and ensuring the necessary follow-up. Moreover, each Autonomous Community has its own database, registries, directories, information systems, IT applications to manage inspections, etc. Within each Autonomous Community, coordination is performed by the Council of Agriculture, in coordination with the national Ministry of Agriculture.

In **some Member States the competent authorities dealing with food safety issues are also in charge of controls on quality and marketing of food products**. In the specific case of *Greece* it is the Greek Food Safety Authority (EFET), which is charge also of conformity checks in collaboration with the Ministry of Rural Development and Food, Directorate for Plant Production (MRDF). In *France*, the General Directorate for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF) is the central competent authority responsible for the supervision of food quality and safety on the national territory, including in the case of olive oil. In general, **competences on conformity checks on olive oils can be shared among different authorities or can be allocated to a single competent authority.** In *Portugal* the General Directorate for Food and Veterinary Affairs (DGAV) and the Food Safety Authority (ASAE) are responsible for both conformity checks and food safety. In *Spain*, the competent authority responsible for food safety is the Ministry of Health, Consumption and Social Welfare, which is directly involved in conformity checks on olive oil at sales points and in the hotels, restaurants and catering services channel. **In other Member States, responsibilities for food safety and for conformity checks are allocated among different authorities**: in *Italy*, the Ministry of Health is the key national authority responsible for food safety while the Ministry of Agriculture is the key authority for all aspects related to the quality of marketed products; in *Belgium*, Federal Public Service (FPS) Economy, SMEs, Self-Employed and Energy is responsible for carrying out checks on the composition and designation of foodstuffs, as well as on deception and economic fraud in the food sector, while the Federal Agency for the Safety of Food in the Chain (FASFC) is responsible for carrying out inspections concerning public health and food safety. Nevertheless, **even in Member States where the responsibilities between the two areas are shared between different competent authorities, there are several activities which also have implications for conformity checks on olive oils**. In general, a high degree of collaboration and some overlapping exists between national authorities in charge of different aspects of controls on food and agricultural products. For instance, in some Member States (e.g. *Italy*, *Portugal*) olive oils are also covered by the Multi-Annual National Control Plan developed in the framework of Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules. In *Italy* the Multi Annual National Control Plan is under the responsibility of the Ministry of Health (which is not the competent authority in charge of conformity checks on olive oils): however, olive oil is considered a priority in the Multi Annual National Control Plan, which also includes controls made in the area of conformity checks. In *Portugal*, the Multi Annual National Control Plan consists of several annual

control plans with a more specific scope and target that may be implemented by different competent authorities at national level. As a general comment, it should be noted that usually the competent authorities do not approach conformity checks on olive oil as laid down in Regulations (EEC) No 2568/91 and (EU) No 29/2012 in isolation from other EU legislation applying to this product, such as general labelling rules under Regulation (EU) No 1169/2011 and traceability requirements under Regulation (EC) No 178/2002.

Producing Member States usually give special importance to olive oil in the framework of control plans in the food sector. This happens because the product is subject to complex designation and labelling rules and is particularly susceptible to fraud, thus requiring stricter market surveillance to protect primarily the interests of consumers as well as those of legitimate operators. This is often reflected in the legislative framework for controls: in key producing Member States, EU legislation is complemented by national legal acts, which are specific to the olive oil sector. In certain cases, (e.g. *Portugal* and *Italy*), these national provisions also regulate specific administrative penalties and additional sanctions in case non-conformities are ascertained in the olive oil sector.

3.3.2 Timeline for performing conformity checks

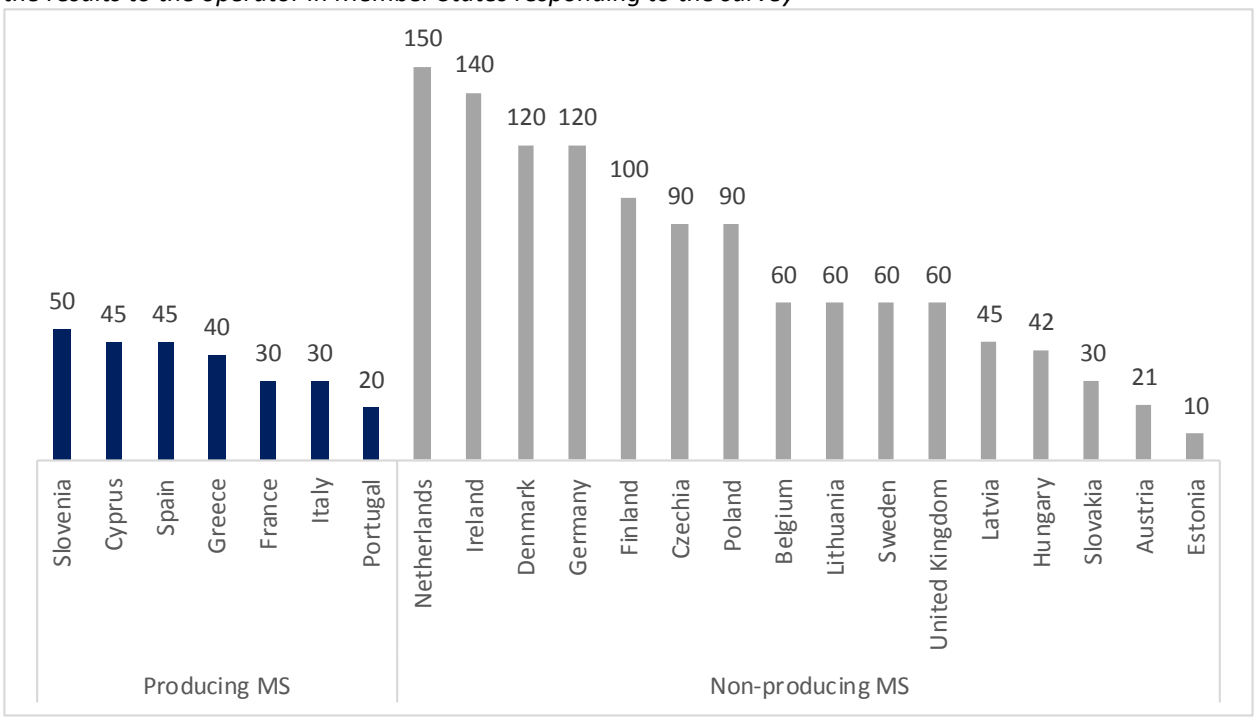
A wide variety of timing for performing all the activities related to conformity checks was indicated by the surveyed competent authorities. In the majority of Member States, the risk analysis is finalised in the period going from the beginning of September to the end of the year for controls that will take place in the subsequent year; conformity checks are performed throughout the year.

Based on information collected through the survey of national competent authorities and interviews, which generally refers to the 2018 campaign, most producing Member States (*Cyprus, France, Greece, Italy, Portugal* and *Spain*) perform conformity checks throughout the year, or for the most part of it. Among the surveyed producing Member States, only *Slovenia* performs conformity checks over a shorter time span[18]. As for the surveyed non-producing Member States[19], the majority (*Belgium, Czechia, Denmark, Ireland, Latvia, Lithuania, Netherlands, Poland*) performs conformity checks over a shorter time span[20]; a significant minority of non-producing Member States, however, performs conformity checks throughout the year (*Estonia, Slovakia*) or for the most part of it (*Austria, Germany, United Kingdom*).

As for the average number of days between the selection of the sample for analysis and the notification of the results to the concerned operator, the results of the survey of national competent authorities are varied and do not highlight general trends. However, a significant difference between producing and non-producing Member States emerged: producing Member States foresee a shorter average period to notify to the operator the results of the analyses performed (between 20 and 50 days), while for non-producing Member States there is higher variability among countries (from 10 days to 150 days), but the overall average period is generally longer, with 11 countries out of 16 requiring more than 50 days (Figure 3.6).

[18] Between October 15 and November 30.
[19] No information is available for *Finland, Hungary* and *Sweden*.
[20] From less than one month to five months maximum.

Figure 3.6 – Average number of days between the selection of the sample for analysis and the notification of the results to the operator in Member States responding to the survey[21]



Source: Areté survey of national competent authorities

Some Member States participating to the survey (9 out of 23) encounter difficulties in keeping the timeline of all the activities regarding: the finalisation of risk analysis; the definition of the number of checks to be performed and the establishment of a control plan; the definition of the start and of the end of the period to perform the checks; the notification to operators of the results of the checks; and, where applicable, the notification to Member States of origin of non-conform results.

The main issue that makes the **timeline difficult to be kept** is the long timespan required for conducting all the relevant operations, particularly when there is a request for counter-assessments. This is especially true for non-producing Member States, which often do not have their own tasting panels or analytical laboratories and hence need to send the samples for the analysis abroad. These Member States might need to wait for a long time before the results of the analyses are available and translated in the relevant languages. In the case of *Poland*, for instance, the **average duration** for completing controls increases and becomes to some extent **unpredictable**, as many foreign tasting panels could be overloaded with requests.

Also producing Member States might encounter difficulties in keeping the timeline for the activities. For instance, in *Greece,* the competent authorities indicated that they encountered difficulties due to the seasonal operation of establishments that produce and bottle olive oil, leading to a situation whereby the majority of controls are performed during the same period and resulting at the end of the year in a situation where the laboratories have too many samples to process. In *Spain,* the major difficulty lays in the long time needed to obtain the results of organoleptic assessment.

[21] *Spain* indicated that the average number of days is between 30 and 60. The average (45) was used to build the graph.

3.3.3 Risk analysis

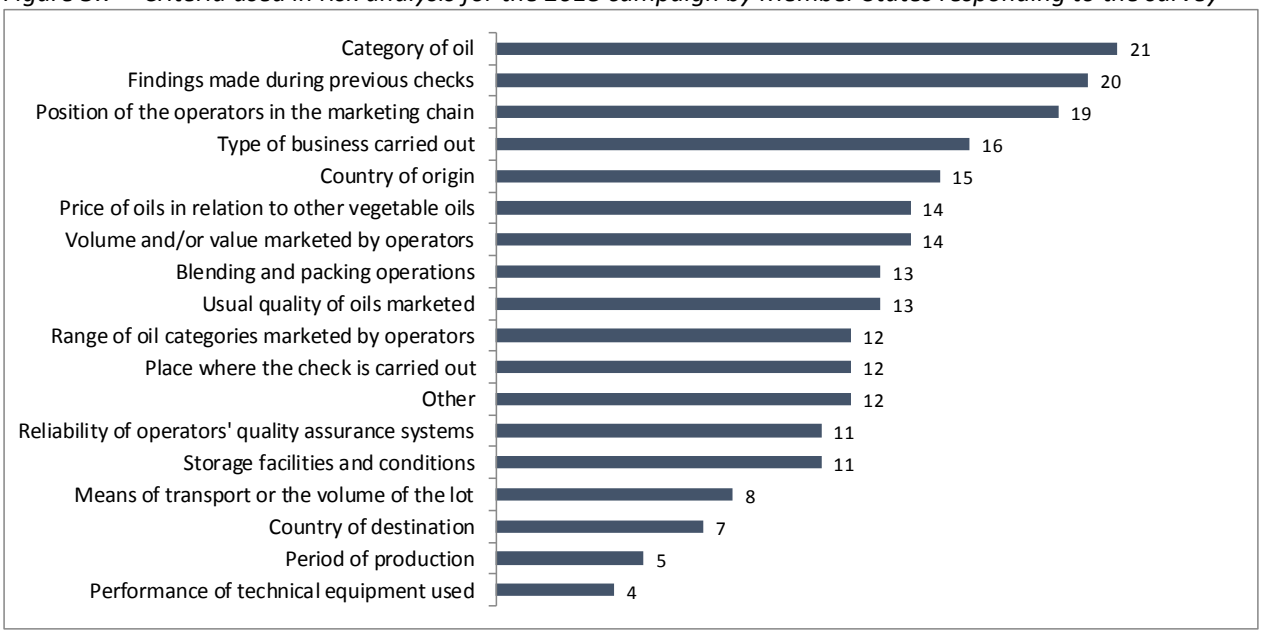
Article2a(2) of Regulation (EEC) No 2568/91 requires EU Member States to perform a risk analysis with a view to supporting the organisation and the carrying out of conformity checks in the olive oil sector. Article 2a(3) of the same Regulation provides for a non-exhaustive list of criteria that national competent authorities may decide to use for planning conformity checks on olive oil.

Risk analysis is a key element of the conformity checks system since an adequate performance of this activity allows competent authorities to target their control activities as appropriate, thus ensuring efficacy and efficiency of checks. However, risk analysis is also a major challenge faced by national competent authorities with respect to the whole conformity checks system. In fact, Member States have a high degree of flexibility in performing risk analysis and may take into account different criteria for its purposes. In particular, for producing Member States the performance of risk analysis alongside the whole production chain can be a complex activity.

Currently, Member States have to notify all measures taken to implement Regulation (EEC) No 2568/91 and in that context, details regarding the risk analysis could therefore be made available to the European Commission. But the majority of Member States restrict their notification to the European Commission to the results of conformity checks. This implies that the evidence presented in this section mainly comes from the results of the survey of national competent authorities and from national case studies.

Figure 3.7 provides an overview of the criteria used for performing the risk analysis for control year 2018, as indicated by respondents to the survey of national competent authorities.

Figure 3.7 – Criteria used in risk analysis for the 2018 campaign by Member States responding to the survey



Source: Areté survey of national competent authorities

The three main criteria used for the risk analysis are the following:

- Category of oil: the majority of controls is focused on packaged extra virgin olive oil (see also § 3.3.4 for information on the allocation of controls on the basis of the classification of olive oils).
- Position of operators in the marketing chain (see also § 3.3.4 for information on the allocation of controls among the different stages of the supply chain).
- Findings made during previous checks.

Many respondents to the survey of national competent authorities also consider consumer complaints as an additional information that might indicate a risk of non-compliance. Some also deem that information retrieved by FBOs, traders, media, institutions, other Member States and EU institutions might be relevant to conduct the risk analysis.

As for the **differentiation between producing and non-producing Member States**, the following considerations can be derived from the analysis of survey replies:

- **All producing Member States responding to the survey use the category of oil**, **the position of the operators in the marketing chain and the findings made during previous checks as criteria for the risk analysis.** Only *Greece*, *Italy* and *Spain* also use the means of transportation, the volume of the lot, and the period of production. *Italy* also indicated that the following two criteria not included in the list are used for performing the risk analysis: a) the production forecast and b) the overall economic situation of the sector. Also *Spain* indicated that some additional criteria are used, in particular: a) the technology ratio (marketed volume/number of employees) of operators; b) the results of external controls by certification bodies or other entities; c) complaints by consumers and consumers' associations.
- The **category of olive oil is also used as criteria for the risk analysis by the large majority of non-producing Member States** (14 out of 16), whereas the performance of technical equipment used is not considered by any non-producing Member State as a criterion for risk analysis.

As for the reasons why some producing Member States do not use some of the criteria in their risk analysis, some interesting cases emerged from the investigations made, in particular:

- For *Cyprus*, the period of production and the country of destination are not considered in the risk analysis because of the low relevance of primary production and export of olive oil for *Cyprus*.
- *France* reported that the harvesting period is not used in the risk analysis because this information is provided voluntarily by operators and therefore does not appear systematically on bottles of olive oil sold on its national market.
- In *Greece*, since the internal consumption of olive oil is almost completely covered by national production, the criteria of the country of origin is not taken into account for risk analysis. In *Portugal*, this criterion is not used because it is not always possible to establish the exact provenance of the olive oil, for example, in case of blends of different olive oils with EU origin.

Generally, non-producing Member States do not use all the listed criteria for the risk analysis because they consider some of them not applicable, since they do not necessarily deal with/have information on all the phases of the production/blending/bottling/exporting processes (e.g. most non-producing Member States consider the period of production not relevant for the risk analysis since there is no domestic production of olive oils in their countries). In this framework, **it was suggested in the survey that the applicable criteria were distinguished into criteria applicable to olive oil producing Member States, criteria applicable to non-producing Member States, and criteria applicable to both**. Moreover, some non-producing Member States, which participated to the survey, do not use the findings made in previous checks as a criteria for risk analysis because they do not have enough experience in conformity checks. However, in some other non-producing Member States (e.g. *Denmark*[22]) in case of non-compliance from previous conformity checks, the concerned operator is often checked the following year.

In terms of how the **risk analysis is concretely performed**, the situation is quite diverse:

- In some cases, the risk analysis is performed with a specific **quantitative tool,** which allows to weigh the various criteria. This type of process has been identified in *Portugal*, where the national competent authority employs a risk matrix that allows a qualitative characterisation of the risk, and then calculates a "Product Risk Indicator" through a specific formula. In *Italy*, a specific software has been developed by the national competent authority. The software consists of a statistical application that calculates a risk index for each business operator of the Italian agro-food chain (i.e. not only of the olive oil sector).

[22] In *Denmark*, conformity checks on olive oils build on a risk analysis which takes into account the results of conformity checks made in the previous campaign. This implies that the Danish competent authority considers the relevance of checking in a certain campaign operators which were found to be non-compliant in the previous campaign. Those considerations are targeted at the operator (an importer or a distributor, in the Danish case), not at the product. That said, there are no internal guidelines or procedures specifying that non-compliant operators in a certain campaign should be systematically checked in the following campaign.

- In other cases, the risk analysis is not performed with a formal procedure. In *Belgium*, for instance, the competent authority for conformity checks in the olive oil sector carries out an informal risk analysis process, which is performed over the whole year to make adjustments to the ongoing control plan; also in *Denmark* the four key criteria used for risk analysis are applied in an informal process [23]. It is highly likely that those informal procedures for risk analysis tend to be applied in Member States with a relatively small geographical area to check and with considerably low consumption of olive oil.
- In some Member States (e.g. *France*, *Italy*) the risk analysis is performed both at central and local level. The central level uses some criteria to elaborate the general plan of checks, while the local level (in charge of control activities) further refines the plan by using other criteria and by taking advantage of the local offices' deeper knowledge of the territories.

Table 3.4 summarises the key elements of risk analysis in Member States covered as case studies.

Table 3.4 – Key elements of risk analysis

Member State	Key elements
France	• Performed both at central and local level ➔ the central level uses some criteria to elaborate the general plan of checks, while the local level (in charge of control activities) further refines the plan. • The process takes advantage of the local offices' deeper knowledge of the territories.
Greece	• Performed at central level. • Operators/products found to be non-conform are always controlled the following year.
Italy	• Performed both at central and local level ➔ the central level uses some criteria to elaborate the general plan of checks, while the local level (in charge of control activities) further refines the plan. • Application of a specific quantitative tool to weigh the various criteria ➔ a software consisting of a statistical application that calculates a risk index for each business operator. • The process takes advantage of the local offices' deeper knowledge of the territories.
Portugal	• Performed at central level • Application of a specific quantitative tool to weigh the various criteria ➔ the national competent authority employs a risk matrix that allows a qualitative characterisation of the risk, and then calculates a "Product Risk Indicator" through a specific formula.
Spain	• Performed both at central and local level ➔ the National Food Chain Control Plan (PNCOCA). PNCOCA regulates criteria to be used to perform risk analysis, while Autonomous Communities are responsible for carrying out their own risk assessments. • Application of a specific quantitative tool ➔ Autonomous Communities use specific software packages and applications for risk analysis to determine the number and place of controls according to pre-selected criteria.
Belgium	• A formal risk analysis is not carried out ➔ an informal risk analysis process is ongoing throughout the year, as reported by the competent authority itself. This informal analysis targets mainly (though not exclusively) retailers of all sizes and types.
Denmark	• A formal risk analysis is not carried out ➔ random sampling is applied and samples are taken from extra virgin olive oil at wholesale level or from retailers' central warehouses or at importers' or wholesalers' warehouses. • Operators found to be non-conform are usually controlled the following year.
Germany	• Performed both at central and local level ➔ the ministry at federal level sets the minimum standards for the conformity checks, the federal states themselves can determine on which samples the tests should focus.
Poland	• Performed at central level ➔ the Agricultural and Food Quality Inspection carries out a yearly risk analysis.

Source: European Commission

[23] As previously explained, in *Denmark* the results of the previous campaign of checks are considered in the risk analysis for the following campaign.

As for the **process followed for updating the risk analysis**, generally there is no formal procedure; the need for updates are evaluated on a case-by-case and year-by-year basis, based on available information. The updating process generally takes into account the outcome of the previous year's controls and any new needs arising in the market. In some Member States (e.g. *Greece*) climate and other agronomic conditions that affect the olive oil harvest are also taken into account to plan the risk analysis for the following year.

3.3.4 Number of checks and their allocation

3.3.4.1 Number of checks

Article 2a of Regulation (EEC) No 2568/91 requires EU Member States to perform annually a number of conformity checks that takes into account the quantity of olive oil marketed on the national market. It is laid down in the Regulation that at least one conformity check per thousand tonnes of olive oil marketed in the Member State is to be carried out per year (Article 2a(4)(b)). Conformity checks include labelling checks pursuant to Regulation (EU) No 29/2012 (see § 3.2.1.2) and category checks pursuant to Regulation (EEC) No 2568/91 (see § 3.2.1.3).

Over the last years, in order to facilitate the work of national competent authorities, the European Commission calculated the minimum number of checks to be carried out in each Member State. The calculation is based on the average volume of olive oil (CN code 1509) and olive-pomace oil (CN code 1510) consumed domestically and exported by each Member State over a reference period. For non-producing Member States, domestic consumption is calculated as the difference between the previous five year averages for total imports and total exports (intra-EU + extra-EU). For producing Member States, average domestic consumption over the previous five marketing years is considered.

Table 3.5 shows the minimum number of checks to be carried out in 2018.

Table 3.5 – Minimum number of checks - 2018

Member State	Number of checks *One check per 1,000 tonnes of olive and olive-pomace oil consumed and exported*
Producing Member States	
Spain	1,532
Italy	952
Greece	310
Portugal	204
France	120
Croatia	7
Slovenia	6
Malta	2
Cyprus	1
Non-producing Member States	
Germany	71
United Kingdom	70
Netherlands	23
Belgium	20
Austria	11
Poland	10
Sweden	10
Czechia	9

Member State	Number of checks *One check per 1,000 tonnes of olive and olive-pomace oil consumed and exported*
Denmark	6
Ireland	6
Romania	5
Finland	4
Bulgaria	3
Hungary	3
Lithuania	3
Latvia	2
Luxembourg	2
Slovakia	2
Estonia	1

Source: European Commission

Producing Member States with substantial production and/or consumption of olive oil are allocated a higher share of the minimum number of checks to be performed. On the other hand, among non-producing Member States, *Germany* and the *United Kingdom* have the obligation to perform the highest minimum number of checks due to their substantial domestic consumption of olive oils.

Those minimum number of checks have to be respected both for labelling checks and for category checks.

Depending on their risk analysis, Member States establish their control plan, which foresees in particular the total number of controls that should be made according to the risk analysis. This number of checks has to be at least equal to the minimum number of checks established by the EU legislation, which is *de facto* quite low for a number of Member States.

Some Member States perform a **number of checks that is higher than the minimum numbe**r foreseen in the Regulation. As shown in Table 3.6, according to the results of the survey of national competent authorities and to the findings from case studies, 12 out of 23 Member States (52%) perform the minimum annual number of checks, and 11 (48%) perform a number of checks exceeding the minimum. If solely non-producing Member States are considered, the split remains quite similar, whereas two out of six producing Member States (*Italy* and *Spain*) exceed the minimum number of checks. It should be noted that for non-producing Member States it is relatively easier to perform a number of checks exceeding the minimum number of checks defined by the European Commission in comparison to producing Member States. In fact, in non-producing Member States the minimum number of checks is generally very low, therefore with a small number of additional checks it is possible to substantially increase the number of checks. On the other hand, this group of Member States faces stronger constraints to increasing the number of performed checks, since they usually do not have established national panel tests (with a few exceptions, e.g. *Germany*). For producing Member States that already have a quite high minimum number of controls to be performed, further increasing it is far more complicated. It should be noted that in this group of Member States, a large share of the overall number of controls performed in the agro-food sector is already allocated to the olive oil sector. In fact, olive oil, and notably extra virgin olive oil, is considered as a food category at high risk of non-compliances and frauds, due to its high economic value compared to other food products.

Table 3.6 – Performed number of checks

Member States that perform the minimum number of checks	Member States that perform a number of checks exceeding the minimum number
1. Cyprus	1. Austria
2. Estonia	2. Belgium
3. Finland	3. Czechia
4. France	4. Denmark
5. Greece	5. Germany
6. Hungary	6. Italy
7. Ireland	7. Lithuania
8. Latvia	8. Poland
9. Netherlands	9. Slovakia
10. Portugal	10. Spain
11. Slovenia	11. Sweden
12. United Kingdom	

Source: Areté survey of national competent authorities and case studies

In general, the parameters influencing and/or conditioning national competent authorities' decisions **to determine the number of checks** are the following:

- The capacity of national laboratories and tasting panels of analysing samples.
- Financial constraints, in particular for Member States without tasting panels or laboratories. In fact, these Member States have to rely on laboratories located in other Member States, which normally imply a cost per each analysed sample.
- The complaints arrived from consumers or other actors of the chain, as well as the diffusion of information implying a higher risk of adulteration and particularly negative results of checks performed in the previous year, are all factors that can lead to increase the number of checks above the minimum number set by the European Commission.

In *Poland*, for instance, the increase in the number of checks is related to the following elements: a) results of previous checks; b) additional signs of inadequate commercial quality of olive oil; c) statistical data on increasing consumption of olive oil in the country. Some national competent authorities reported that **the total number of checks is adjusted** during the year, usually through increases:

- In *Greece*, whenever special circumstances in a specific region of implementation of conformity checks for olive oil require an increased number of checks, this needs to be notified to the Department of Laboratory Controls (under the Greek Food Safety Authority - EFET) to adjust the number of checks.
- In *Italy*, the following three factors can lead to adjustments in the number of checks during the year:
    - Since in *Italy* the number of checks is based - amongst other things - on the production forecast made in October of the previous year, if the actual production substantially differs from the forecast, the overall number of checks to be performed is adjusted in order to reflect the actual production.
    - At local level, an additional number of checks can be performed upon request by judicial authorities or by initiative of local offices.
    - The detection of an extensive number of non-compliances or even frauds can require further investigation and, as a consequence, an additional number of controls to be performed.

3.3.4.2 Allocation of checks

Conformity checks should be performed in all the relevant **stages of the supply chain**. Member States should assess the level of risk of each stage of the production and marketing chain, and design their control plans

accordingly. According to Article 2a(3)(b) of Regulation (EEC) No 2568/91, the position of the operators in the marketing chain can be used also as criterion for performing the risk analysis. However, the European Commission does not have information on how competent authorities allocate checks among the different stages of the chain, and there is a general perception that some marketing channels are not sufficiently controlled.

In producing Member States all the stages of the supply chain, i.e. production (including olive milling), storage, refining, blending, bottling and labelling, should be covered by controls, whereas in non-producing Member States, distributors and retailers are mostly controlled. In fact, the majority (9 out of 16) of surveyed national competent authorities[24] in non-producing Member States performs conformity checks on olive oil at the retail stage only (including retail warehouses and stores). Two surveyed national competent authorities of non-producing Member States (*Belgium* and *Ireland*) check also bottling operations, mainly depending on whether such establishments are located in their national territory. In *Belgium*, the risk analysis targets mainly (though not exclusively) retailers of all sizes and types, as these are the most relevant selling points in the country.

However, also in producing Member States some stages of the supply chain can be relatively more controlled than other stages. For instance, in *Portugal* operators managing storage, bottling, retail and mass-catering facilities are generally considered as having a higher risk profile compared to operators at the level of primary production (i.e. crushing mills and olive growers), and therefore controls are mostly targeted at the former. By contrast, in *Italy*, *France* and *Portugal* the direct sales[25] channel is apparently less controlled than the other marketing channels. However, this also reflects the relatively minor importance of this marketing channel compared to large-scale retailing, where the bulk of olive oil is purchased.

As for how the allocation of controls along the chain is practically carried out, the practices vary among Member States. In *Greece*, the competent authority establishes an order of priority and then allocates the checks following that order. The priority order is the following: 1) bottling plants; 2) retailers; 3) production sites. In *Italy*, the finalisation of allocation of controls among the different actors of the supply chain (producers, retailers, etc.) is made by each individual local office in charge of controls, and is based on the knowledge of the local area. In *Spain*, the allocation of controls along the supply chain is performed by three national competent authorities, reflecting the responsibilities of each competent authority (i.e. SOIVRE[26], AESAN[27] and the Ministry of Agriculture[28]); however, the criteria for such allocation were not disclosed. Finally, in *Cyprus* the number of samples is evenly allocated mainly to the retail stage and to the points of entry of imported oils. In this country, the production and bottling stages are only checked during investigations aimed at verifying previously detected non-compliances, or following complaints filed by consumers.

In producing Member States, the majority of checks is distributed at **geographical level** taking into account local consumption and production patterns. In *Greece*, for instance, controls are focused on regions where the main bottling plants and retail stores are located. In this country, the annual plan of checks also provides a breakdown of the number of samples to be checked by each of the four officially appointed laboratories. In *Italy*, the number of checks is distributed among all local offices, taking into account production and marketing features of the area where each local office is based: as a general rule, the number of controls is higher in regions with substantial consumption and/or production of olive oil. In *France*, controls are mainly carried out in the areas of production (Southern France) and in the main areas of consumption (Southern France and Ile-de-France). In *Portugal*, the number of checks at each stage of the supply chain is determined according to information on previous checks performed on each operator, and to the associated risk. In *Italy*,

[24] No information on this specific aspect was provided by five surveyed non-producing Member States: *Austria, Czechia, Netherlands, Poland, United Kingdom*.

[25] Based on evidence mainly gathered through national case studies, "direct sales" should be intended as sales of olive oil by (often small) producers directly to consumers. These sales may take place on farms, online, in markets or on the road.

[26] The Official Service for Inspection, Surveillance and Regulation of Foreign Trade (SOIVRE) is the responsible body for the control of imported and exported products.

[27] The Spanish Agency of Food Safety and Nutrition (AESAN) coordinates controls on food products (except for imported and exported products).

[28] The Ministry of Agriculture, Fisheries and Food (MAPA) is responsible for coordinating the official quality controls.

after the geographical distribution of checks has been determined in the way described above, the identification of each individual operator to be checked is based on similar parameters to those considered in *Portugal*, namely information on each operator contained in the national digital databases, and the related risk rate calculated through a specific statistical software.

In some Member States (e.g. in *France* and in *Italy*), the experience of local inspectors is also considered as a valuable tool for focusing controls on products that can be deemed to be at a high risk of non-compliance; it is plausible to assume that also in other Member States the targeting of controls at individual operator is improved by the professional experience and training of the staff of the authorities implementing conformity checks on olive oils.

Finally, for what concerns the **classification and packaging** of products to be checked, the majority of checks is targeted at extra virgin olive oil, and at bottled oils in general. In *France*, conformity checks are mainly targeted at extra virgin oil with a non-EU origin, whereas French PDO and organic olive oil is relatively less controlled.

3.3.5 Sampling

The sampling of olive oil for performing conformity checks is regulated by provisions laid down in Annex 1a of Regulation (EEC) No 2568/91. The Annex regulates different sampling methods, depending on whether the packaging exceeds 5 litres or not. In the framework of provisions defined at EU level, Member States can regulate at national level the procedure for performing sampling and can also increase the overall number of containers or samples according to their own needs.

The organisation of the sampling procedure is quite differentacross EU Member States. In the majority of Member States, the **procedure to perform the sampling** is regulated through national guidelines ("sampling standard procedure") that all the staff in charge of the sampling process should follow. Those guidelines, generally also accompanied by check lists (e.g. in *Italy* and *Portugal*), aim at ensuring that sampling is performed in a uniform manner across the entire national territory. Also, the EU legislation specifies that samples should be protected against heat and light, and national procedures for storing samples in a way that protects them against external factors (such as light, humidity or temperature) are usually further specified by competent authorities (e.g. in *Spain*).

In a number of Member States (e.g. *Greece*, *Portugal* and *France*), **olive oil to be sampled must have at least a specific period of time from the minimum durability ("best before") date**, so that in the event counter-assessments are required, the minimum durability date has not elapsed in the meantime. These criteria may bias the selection of samples but are essential to enable counter-assessments and to allow reconstructing the whole process in case of non-conformities. It is plausible that also other Member States have similar procedures in place.

The **number of samples collected** and/or their volume change according to the situation. In *Portugal*, if the product quantity available does not allow collecting three samples (this usually happens in small retail shops or in bars and restaurants), a single sample is collected. Under these circumstances, the olive oil producer is invited to witness the opening of the official sample before laboratory tests take place. In *France*, in order to carry out counter-assessment if needed, three samples are systematically collected: one sample is used for the analysis, and the two others are stored respectively in the laboratory of the competent authority and at the investigated stakeholder's premises. Likewise, in *Belgium,* three samples of each controlled batch are taken; the first sample is divided in two parts and sent to: (a) the laboratory performing the chemical assessment (50% of the sample); (b) the tasting panel performing the organoleptic assessment (the remaining 50%). As regards the other two samples, one is stored by the competent authority and one made available to the controlled business operator in case of requests for counter-assessment.

In *Italy*, the consulted sectoral associations reported that in parallel to conformity checks performed by the competent authorities, several Italian operators (especially large ones, but also a number of medium-small ones) store samples of all marketed batches in a storage unit, in a way to protect samples from external factors that can deteriorate the quality of olive oils. This practice allows to keep samples of oils that have been found to be compliant with the declared category following private controls done by those operators prior to their marketing (physico-chemical analyses and organoleptic assessment are outsourced by operators

to an external private certified laboratory). Samples are usually stored at least until they reach their minimum durability date.

3.3.6 Performance of checks

The situation for what concerns the **analyses performed on each sample** at Member State level is quite diversified. For what concerns producing Member States:

- In *France*, each batch undergoes physico-chemical analyses, organoleptic assessment and labelling checks. A non-compliant batch according to the physico-chemical analysis also undergoes organoleptic assessment, even though this is not compulsory. The inspectors of the competent authority carry out a first labelling check on compulsory indications before sending the sample to the laboratory. A second labelling check is then carried out by the laboratory, based on the results of the analyses performed.
- In *Greece*, all samples are checked for four chemical parameters (namely, determination of acidity, spectrophotometric investigation in the ultraviolet, determination of fatty acids and determination of difference between actual and theoretical content of triacylglycerols). Depending on the findings of these compulsory analyses, the authorities decide the extent to which the remaining analyses will be performed, with a view to deriving a safe conclusion as to the extent to which the samples are conform with the declared category. In addition, on samples of extra virgin and virgin olive oil, the organoleptic assessment is also performed. Analyses are performed in line with the relevant annexes of Regulation (EEC) No 2568/91.
- In *Italy*, not all the types of analyses are performed on all controlled products. The reason behind this practice is that inspectors have the possibility not to activate the procedure to perform physico-chemical analysis and organoleptic assessment if, from a preliminary analysis, the product can be probably considered as compliant. When numerous batches are under control (e.g. in the storage centres of large-scale retailers) the inspectors often perform a preliminary category check (i.e. organoleptic assessment) on the stored products. In fact, the majority of inspectors are trained as tasters of olive oil, therefore they are in the position to perform an initial screening on the quality of the product. Only samples of oils that are considered at risk of non-compliance are collected for further testing of physico-chemical and organoleptic parameters.
- In *Portugal*, all laboratory analyses that are relevant are performed simultaneously on the collected samples, accordingly to the specificities of the product (e.g. conventional, organic, protected geographical indications, etc.); these analyses hence include, but are not limited to, physico-chemical analyses and organoleptic assessment (i.e. category checks).

For what concerns non-producing Member States:

- In *Belgium*, physico-chemical analyses and organoleptic assessment are performed on each sample. Phyisico-chemical analyses are contracted out to private accredited laboratories, located both in *Belgium* and in other Member States, usually in *France*. Since *Belgium* does not have a tasting panel, organoleptic assessment is performed by accredited tasting panels located in other Member States, such as *Greece*.
- In *Denmark*, samples for physico-chemical analyses and organoleptic assessment are sent to accredited laboratories that are mainly located in *Greece* and *Spain*.
- In *Poland,* due to the lack of domestic approved tasting panels[29], the organoleptic assessment of olive oils is carried out in foreign laboratories, with significant impacts on the average duration for completing controls.

As for checks on labelling, several Member States reported that inspectors generally check not only compliance with the requirements set by Regulation (EU) No 29/2012, but also compliance with other

[29] According to the Polish competent authority the country does not have an established tasting panel for olive oils: the panel reported by the European Commission for the country should hence not be considered for the purposes of conformity checks on olive oils (see also Figure 3.8 at § 3.3.6.1).

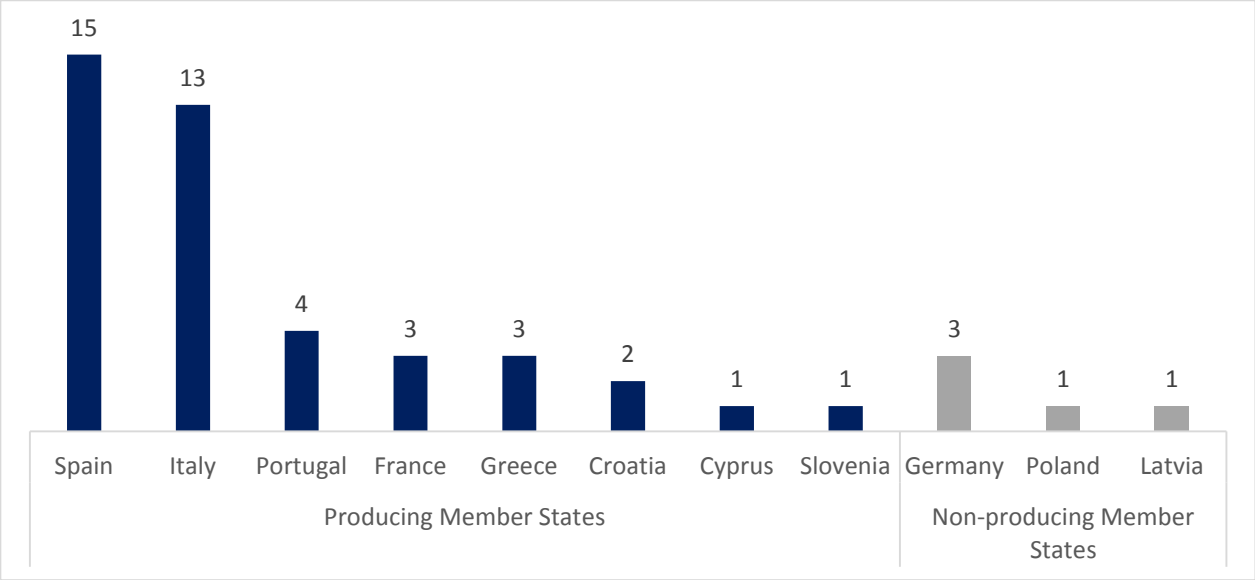
relevant labelling rules (e.g. general food information requirements laid down in Regulation (EU) No 1169/2011 and Regulation (EC) No 1924/2006 on nutrition and health claims on food products).

3.3.6.1 Panel tests

According to Commission Regulation (EEC) No 2568/91 of 11 July 1991, organoleptic characteristics of virgin olive oils must be verified by tasting panels approved by Member States (Article 2(2)). Each Member State has a list of tasting panels set up by professional or inter-branch organisations (Article 4(3)). If a Member State is unable to set up tasting panels it can call on a tasting panel approved in another Member State (Article 4(2)).

As shown in Figure 3.8, each producing Member State (except *Malta*) has at least one approved tasting panel. *Spain* is the Member State with the highest number of approved panels (15). Among the non-producing Member States, only *Germany* and *Latvia*[30] have official tasting panels established in their country. *Cyprus* indicated that organoleptic assessment on olive oil has not been implemented in official controls yet, and that the country is in the process of amending the related national legislation; however, there is an established tasting panel in *Cyprus*.

Figure 3.8 – Number of approved tasting panels established in each Member State



Source: European Commission, List of approved panels Article 4 of Commission Regulation (EEC) No 2568/91[31]

All tasting panels approved by Member States for the purposes of olive oil controls are also recognised by IOC. The IOC recognition is based on two proficiency tests organised every year by the IOC. Currently, there are about 90 IOC recognised panels in the world. IOC has adopted rules for the award of recognition to testing laboratories, which prove through regular ring tests that they are **competent in applying the methods of analysis adopted by the IOC.** Tasting panels recognized by the IOC apply the method of the IOC for the sensory analysis and follow the rules established by the IOC for the standardisation of the work. The method for the sensory analysis for virgin olive oils was initially adopted in 1987 by the IOC and was then adopted by the European Commission in 1991. Every panel consists of 8 to 12 participants, including a panel leader. Participants have to be trained to identify the positive and negative attributes and classify olive oils according to their characteristics. The attributes of olive oils identified through the organoleptic assessment cannot be

[30] Also *Poland* is reported by the European Commission (List of approved panels Article 4 of Commission Regulation (EEC) No 2568/91) to have a tasting panel: however, according to the Polish competent authority, the country does not have an established tasting panel for the purposes of conformity checks on olive oil.

[31] According to the Polish competent authority the country does not have an established tasting panel for olive oils: the panel reported by the European Commission for the country should hence not be considered for the purposes of conformity checks on olive oils.

analysed with other methods: in fact, the physico-chemical analysis aims at analysing other quality characteristics such as the acidity, the peroxide index, etc., as well as the purity of the olive oil (e.g. whether it has been mixed with other vegetable oils). The organoleptic method aims at performing the organoleptic assessment of virgin olive oils, which is one of the quality characteristics for those categories. The IOC also provides samples and reference materials to its recognised panels. It should be noted that the IOC method is used both for the purpose of conformity checks on olive oils (at EU level) and, more generally, for the classification and description of the characteristics of olive oils.

The tasting panels approved by Member States are usually also accredited by national accreditation bodies (e.g. in *Portugal* tasting panels are accredited by *Instituto Português de Acreditação* – IPAC; in *Italy* they are accredited by the national accreditation body ACCREDIA).

As for the situation in **Member States that have one or more established tasting panels**, there are some key trends that can be highlighted:

- In Member States with an organisation of controls involving regional competent authorities (i.e. *Spain, Germany*), the situation varies among the different regions (in the case of *Spain*) or federal states (in the case of *Germany*). For instance, in *Spain* some Autonomous Communities have official laboratories, which can perform the analyses required by conformity checks for olive oil. However, the Ministry of Agriculture has its own official laboratories, which can be used by Autonomous Communities to perform those analyses, if needed.
- In some Member States, a central laboratory is in charge of counter-assessments and coordination activities. In *Italy*, the central laboratory of the competent authority - located in Rome - is also in charge of research activities. On the contrary, in *Greece* the organoleptic assessment is performed mainly in the central laboratory, General Chemical State Laboratory (GCSL), while the other two laboratories are mainly used for counter-assessments.

In **Member States where the organoleptic assessment is performed by approved tasting panel(s) located in other Member States,** the main reasons for not having panel tests established on their national territories are the following:

- Absence of domestic production of olive oil.
- Insufficient availability of qualified experts to establish a tasting panel.
- Few samples are taken each year (possibly also because the domestic market for olive oil is limited) and it would be too costly to establish a tasting panel.

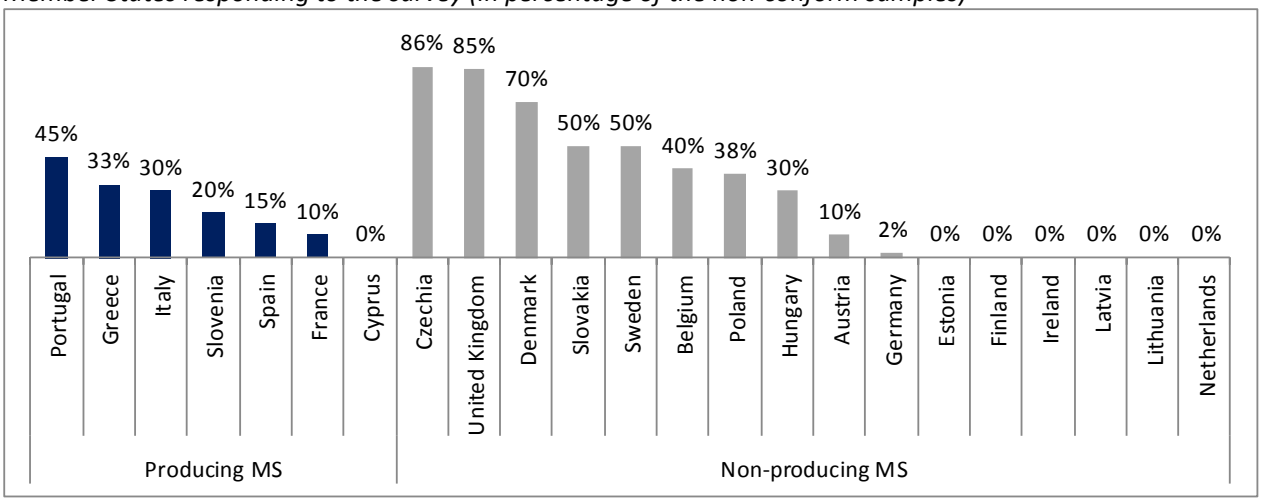
In general, the surveyed Member States without recognised and approved panels pointed out that sending samples for analyses to other Member States is time-consuming and very costly for them. *Belgium*, *Denmark* and *Poland* reported that due to the lack of domestic approved tasting panels, the organoleptic assessment for olive oil is carried out in foreign laboratories, with significant impacts on the average duration of the period for completing the control procedure.

3.3.7 Counter-assessments

When a panel deems that the sample is not of the declared category, at the interested party's request, two counter-assessments by other approved panels are carried out. At least one counter-assessment must be carried out by a panel approved by the producing Member State concerned.

The shares of estimated non-conform samples subject to requests of counter-assessment are reported in Figure 3.9. On average, the share of non-conform samples subject to requests of counter-assessment is lower in producing Member States than in non-producing Member States. The Member States with the highest share of counter-assessment requests are *Czechia* (86%) and the *United Kingdom* (85%).

Figure 3.9 – Estimated share of non-conform samples subject to requests of counter-assessments in the Member States responding to the survey (in percentage of the non-conform samples)

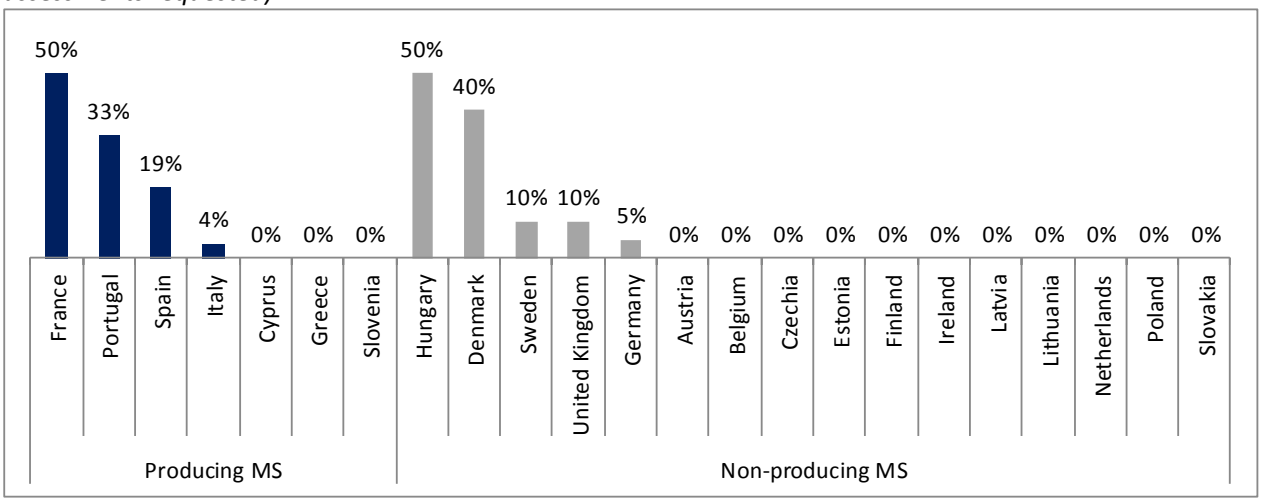


Source: Areté survey of national competent authorities

Among the number of counter-assessments requested in each Member State, the share of counter-assessments that have proven to be "in favour" of the operator is generally quite low (see Figure 3.10). In 14 Member States out of 23, no counter-assessment ended with a favourable ruling for operators (0% share). *France*, *Hungary* and *Denmark* have the highest shares of counter-assessments that ended up being "in favour" of the operators (between 40 and 55%); the share is significant also in *Portugal* (33%). To put those figures in the appropriate context[32], however, it should be considered that in the cases of *Denmark* and *Hungary* the absolute number of counter-assessments is low, as those Member States perform a limited number of conformity checks (see § 3.3.4.1): this implies that the absolute number of counter-assessments that ended up being "in favour" of the operators is also low. As for *France*, it is worth noting that a low share (10%) of non-conform samples is subject to requests for counter-assessments: also in this case, the absolute number of counter-assessments that ended up being "in favour" of the operators is likely to be low. The only Member State where the absolute number of counter assessments that ended up being "in favour" of the operators might be significant is *Portugal*: this Member State performs a high number of conformity checks (see § 3.3.4.1), and an important share (45%) of non-conform samples is subject to requests for counter-assessment. Overall, it can be concluded that **counter assessments ending up "in favour" of the operators represent an exception**: this suggests that **organoleptic assessment can generally be considered as a reliable method to ascertain whether a certain sample of olive oil corresponds to the declared category**.

[32] It should be noted that in the absence of publicly available data on the number of checks actually performed, on the number of non-conform samples and on the number of counter-assessments requested for each Member State, the only considerations that can be made are based on the minimum number of checks to be performed (as reported at § 3.3.4.1) and on the share of non-conform samples subject to requests of counter-assessments (Figure 3.9).

Figure 3.10 – Estimated share of requests for counter-assessments that have proven to be "in favour" of the operators in the Member States responding to the survey (in percentage of the number of counter-assessments requested)



Source: Areté survey of national competent authorities

In Member States with own tasting panels, counter-assessments generally take place in approved laboratories or in the laboratories of the competent authority. In *Greece*, operators can request a counter-assessment by two different approved panels in accordance with EU legislation. However, it should be noted that for non-conformities for chemical parameters only, the counter-analysis is performed again by the laboratories that carried out the first chemical analysis.

In *Portugal*, it appears that large business operators are more inclined to request counter-assessments than small and medium producers, most likely because of the costs associated with organoleptic assessment in case the counter-assessments confirm that the oil is not compliant with the declared category.

In Member States without own tasting panels, also the counter-assessments are performed in laboratories located in other Member States. In *Belgium*, operators have 15 days to react to the notification of non-conformity from the competent authority and to request a counter-assessment. Following this deadline and within a maximum period of two months, the operator can perform counter-assessments at its own expense. The results of the operator's counter-assessments must be communicated to the competent authority within 60 days from the date when the decision to perform a counter-assessments was communicated by the operator to the competent authority.

3.3.8 Results of the conformity checks

Results of conformity checks are notified each year to the European Commission according to a dedicated format contained in Annex XXI of Regulation (EEC) No 2568/1991. It should be noted that recording of the results of conformity checks at Member State level is not necessarily organised against the same information set needed to compile Annex XXI. In other words, competent authorities generally need to select and process data on conformity checks in order to compile Annex XXI. In fact, a number of results of checks performed by Member States pursuant to other EU legislation fall outside the scope of conformity checks for olive oil and the related Regulations (29/2012 and 2568/91), or cannot be included in Annex XXI. In *France* and in *Italy*, for instance, several labelling irregularities are checked when the controls are performed, but only irregularities related to Regulation (EU) No 29/2012 are reported in the Annex. In addition, as already explained at § 3.3.5, not all samples are checked for all three types of controls in all Member States. The Italian competent authority, for instance, only reports in Annex XXI the results of the checks performed on samples for which a complete set of controls has been carried out.

In spite of the diversity of cases, some key trends can be highlighted with respect to the **main infringements** detected on olive oils. It should be noted that the infringements are listed in random order and that sorting the list from the most common to the less common infringement is not possible. Nevertheless, from the information collected, the following typologies of infringements can be identified:

- Marketing of virgin olive oil as extra virgin olive oil, as detected through chemical analysis and/or organoleptic assessment. This is by far the most widespread type of non-compliance identified with respect to the organoleptic characteristics of olive oils that are declared as "extra virgin olive oil".
- Marketing of seed oils coloured with chlorophyll as extra virgin olive oil, as detected through chemical analyses. This is not a very common infringement and can be easily detected.
- Marketing as “olive oils” of blends of other vegetable oils (sunflower, corn, palm, rapeseed, etc.) with olive oil.
- Extra virgin olive oil marketed with fraudulent indications related to the variety.
- Infringements of the provisions on labelling due to the omission of mandatory indications, irregular use of voluntary indications and/or misleading use of the indications of origin.
- Marketing of “lampante” olive oil labelled as “extra virgin” or “virgin” olive oil.

The overall number of non-compliances detected each year is considered as relatively steady in most of the Member States. According to some consulted stakeholders in certain Member States, the number of non-conformities, as well as their typologies, also depend on the selling price of olive oil. A number of factors (high production costs, recognised benefits for health and nutrition, organoleptic properties which are appreciated by consumers) concur to determine high prices for olive oils (and especially extra virgin olive oils). In such a market landscape, fraudsters are more tempted to commit frauds and to market non-compliant products.

In conclusion, it should be noted that 20 out of 23 surveyed Member States agreed that the **results of conformity checks are representative of the current situation of the olive oils marketed in the country in terms of non-compliance levels**. Triangulating this reply with evidence collected through other sources (mainly at case study level), it seems correct to interpret this information as a general positive opinion of the working mechanism (and of related results) of the conformity checks system, rather than as a quantitative comparison of the number of non-conformities to the overall market of olive oil. In fact, with a properly targeted risk analysis and the consequent focus of checks on products that are at higher risk of non-conformities, the number of detected non-conformities should be higher than the actual non-compliance levels of the marketed olive oils. According to the *Danish competent authorities*, given the low number of samples, it is not possible to draw conclusions on the representativeness of the results of conformity checks for the market situation on olive oils. For *France*, the overall number of detected non-conformities is higher since the controls target products that are deemed to be more at risk of non-conformities. For *Spain*, due to the fact that controls are targeted at operators associated with a higher risk, the number of detected non-conformities does not reflect the situation of the sector, but it is rather higher than the overall non-compliance level.

3.3.9 System of penalties

In the majority of surveyed Member States (19 out of 23, i.e. 83%) the penalties applying to the olive oil sector are the same as or similar to penalties that national legal orders set out for the violation of legal requirements concerning other food products. Only four of the surveyed Member States currently have specific penalties in place for the infringement of legal provisions applying to olive oil (Table 3.7): two are producing Member States (*Italy* and *Portugal*) and two are non-producing Member States (*Austria* and the *Netherlands*).

Table 3.7 – System of penalties

Penalties are specific to the olive oil sector	Penalties are the same as / similar to penalties applying to other food products
Austria	Belgium
Italy	Cyprus
Netherlands	Czechia
Portugal	Denmark
	Estonia
	Finland
	France
	Germany
	Greece
	Hungary
	Ireland
	Latvia
	Lithuania
	Poland
	Slovakia
	Slovenia
	Spain
	Sweden
	United Kingdom

Source: Areté survey of national competent authorities

Notwithstanding the above, in the case of *Greece* it should be noted that while penalties for non-conformities with the legislation on olive oil are, in general, the same as penalties foreseen for non-conformities with legislation governing other food products, a set of administrative sanctions exists too at national level for the violation of the conditions that establishments and plants of the olive oil sector must fulfil to be granted approval by the national competent authorities, as per Joint Ministerial Decision 323902/2009.

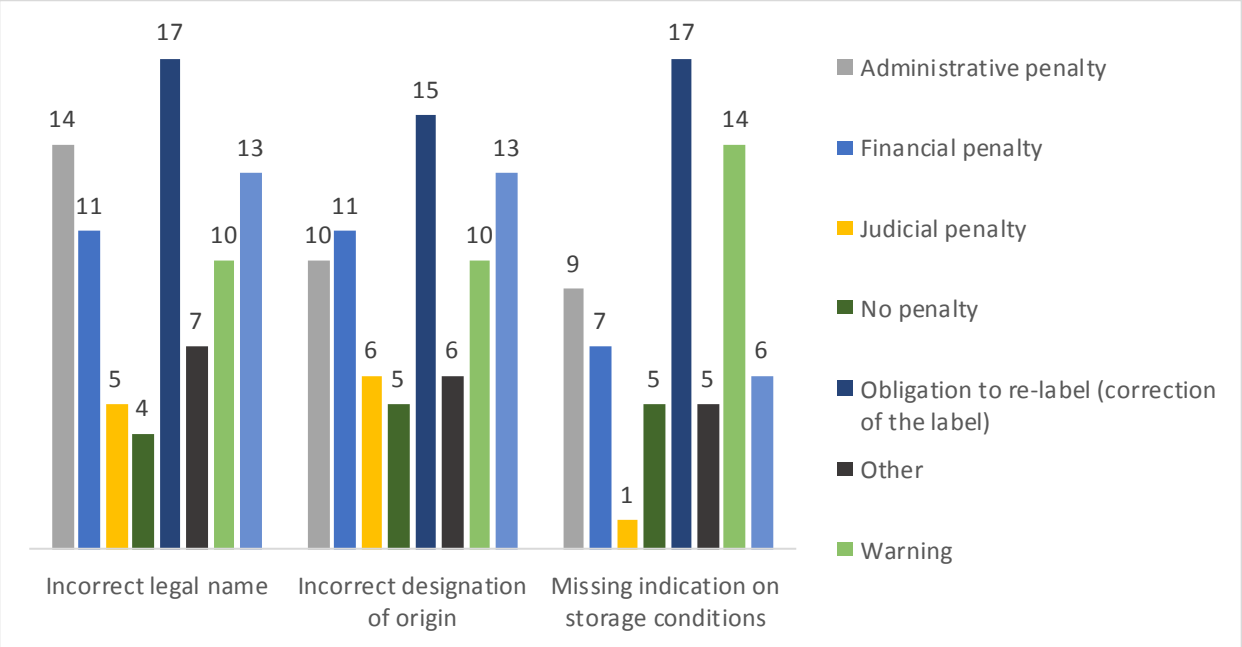
Lack of penalties

From the survey of national competent authorities it emerges, first of all, that at present 1/3 of the surveyed Member States do not have penalties in place to be applied to non-conformities with physico-chemical parameters and organoleptic characteristics (category checks). A few Member States also do not have penalties to sanction labelling non-compliances such as "erroneous information on the labelling" and "incorrect designation of origin".

Type of penalties

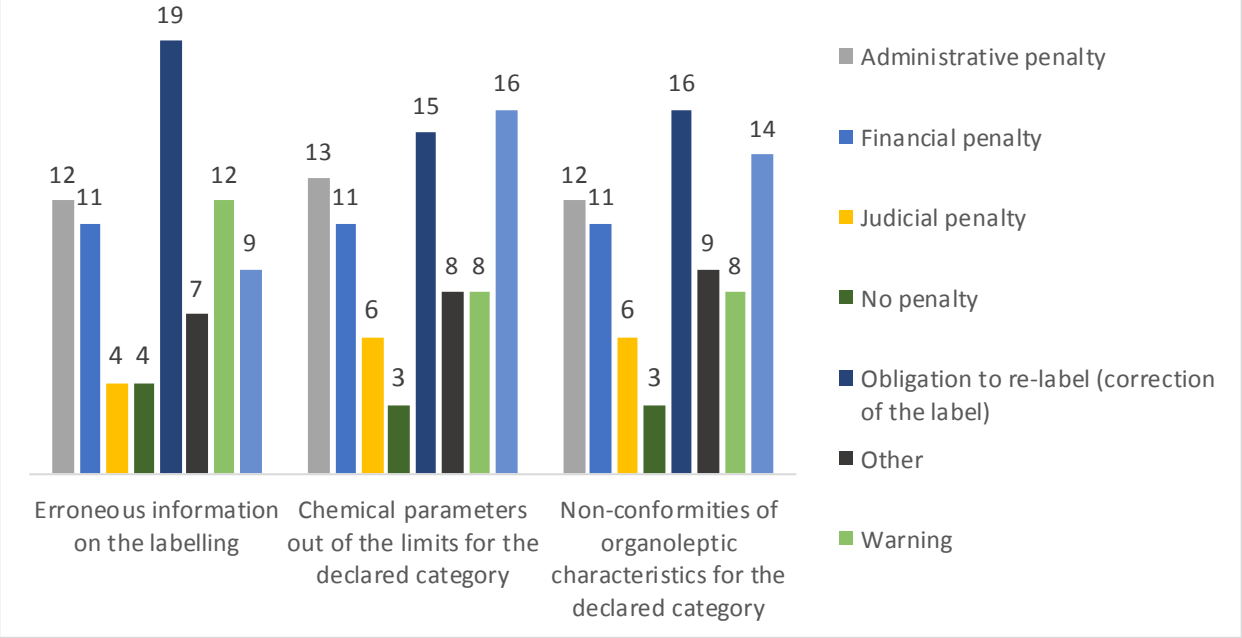
Figures 3.11 and 3.12 indicate the specific penalties foreseen by the surveyed Member States for the different kinds of non-conformities that may concern olive oil, while the paragraphs that follow provide for an analysis of the data collected on this specific aspect of the EU conformity checks system.

Figure 3.11 – Number of surveyed Member States applying specific penalties in case of "incorrect legal name", "incorrect designation of origin" and "missing indications on storage conditions", by type of penalty



Source: Areté survey of national competent authorities

Figure 3.12 – Number of surveyed Member States applying specific penalties in case of "erroneous information on the labelling", "chemical parameters out of the limits for the declared category" and "non-conformities of organoleptic characteristics for the declared category", by type of penalty



Source: Areté survey of national competent authorities

The majority of Member States impose the obligation to re-label upon the relevant business operator when the non-conformity detected concerns the "incorrect legal name". Overall, the obligation to re-label is largely applied across the different surveyed Member States. Likewise, financial and administrative penalties are identified by many of the surveyed Member States as an enforcement measure that concerned business operators are expected to comply with following the detection of non-conformities such as "incorrect legal name" and "incorrect designation of origin", or of non-conformities with the physico-chemical parameters and organoleptic characteristics applying to the declared category of olive oil.

On the contrary, judicial penalties are not enforcement actions that are largely used in the surveyed Member States whenever a non-conformity is detected following a conformity check.

Warning is a tool used only by some Member States. For some of them, including *Italy*, warning is a key element of the national penalty system applying in the olive oil sector (and more in general for all agro-food products). In *Italy*, warning is specifically regulated by Legislative Decree No 91/2014, which requires the respect of the following conditions:

- The warning can be issued only for infringements of provisions entailing administrative sanctions.
- The non-conformity identified can be rectified (e.g. through the re-labelling of a batch of products), in which case the operator receiving a warning (bottler, producer, crushing mill, etc.) has 20 days to take the relevant corrective action.
- The non-conformity must have been identified for the first time, with different types of non-conformities being counted as first time. Should the violation detected be a recurring one, the concerned business operator is not entitled to receive a warning.

The provision also applies to products that are already in the distribution channels. For instance, in case of non-compliance of labelling on bottled products, after a warning all the products can be withdrawn and re-labelled.

In *France* a simple warning letter, reminding the legislation, is sent to the concerned business operators whenever minor violations are identified for the first time[33]. These minor violations are mainly related to erroneous labelling with wrong mentions or missing compulsory ones (e.g. absence of indications on preservation conditions or minimum durability date, addition of non-compliant indications such as "*provenant des meilleurs terroirs européens*" / "from the best European territories", etc.).

In *Belgium*, a mere warning is often issued for non-conformities that are detected for the first time. This warning always includes an obligation to re-label the non-compliant product. However, if non-conformities are detected in a following inspection of the same operator, an administrative penalty – consisting of a fine - is directly issued. In some cases, i.e. incorrect legal name provided, or non-conformities regarding the physico-chemical and organoleptic characteristics of the product, the competent authority may also order the withdrawal of the product from the market.

In *Portugal,* in addition to the application of administrative and criminal/judicial sanctions, the food business operator who is responsible for an ascertained violation may be required to undertake the corrective actions that may be deemed necessary, taking into account the circumstances of the specific case. Overall, the withdrawal from the market of the product or the obligation to re-label are among the most typical remedial actions that may be expected from business operators found responsible of the violation of legal requirements in the olive oil sector.

In *Spain*, national law currently foresees that in the case of repeated offences of a similar nature or proven fraudulent practices, the competent authority may decide to publish the details of the natural or legal persons responsible for the violation and the nature and type of the latter in the official gazette of the Autonomous Community and in the media, if appropriate.

In some Member States a detected non-conformity following the performance of a conformity check may lead to the application of two types of penalties against the concerned business operator, i.e. administrative and criminal/judicial sanctions.

In *Portugal*, for instance, an administrative procedure is foreseen for minor non-compliances. Otherwise, an injunction order with a compliance obligation is sent to the operator. The operator is inspected a second time after a period that takes into account the nature of the non-conformity and the minimum period required to make the necessary changes. Should the second check detect non-conformities, a penal procedure is launched. In accordance with Portuguese national legislation, the very same conduct (e.g. incorrect legal name, incorrect designation of origin, detection of non-conformity for chemical parameters or organoleptic

[33] Inspectors from local offices of the *Direction générale de la concurrence, de la consommation et de la répression des frauds* (DGCCRF) usually carry out a second control the next year whenever operators receive a warning letter.

characteristics) may be in itself subject to both administrative and criminal/judicial sanctions, although the latter can be inflicted only if the nature of the conduct is proven to be fraudulent in court.

In *Germany,* it is the competent authority of each federal state that decides (with an approach that may in fact vary from one state to another) whether a given non-conformity is an administrative offence or a criminal offence, and initiates the relevant procedure.

Criteria for assessing the seriousness of a detected irregularity

In terms of how to interpret the notion of "seriousness of the irregularity detected", the majority of the Member States base this assessment on:

- The nature and type of the irregularity detected.
- The frequency of the irregularity detected.
- The volume of the product and the extent of the irregularity.
- The intention of the operator to commit a fraud.

As a rule, the more serious is the non-conformity detected, the higher the penalty to be applied.

Application of penalties in the olive oil supply chain

In general, the linkage between the results of the checks and the identification of the responsibilities of the appropriate actor is a key challenge for the functioning of the system of conformity checks in the olive oil sector. For producing Member States, the challenge is more serious than for non-producing Member States, since they have to control and attribute responsibilities in case of non-conformities across the entire supply chain, not only in the distribution and retailing stages.

Against this background, as regards the **stage of the supply chain where penalties are applied**, 11 out of 23 surveyed Member States (48%) apply the penalty to the owner of the product when the check is being performed. In general, the penalty is applied to the operator/s of the chain who is/are legally responsible for the non-conformity, depending on the concrete situation and on the obligations established by national law.

From the fieldwork carried out at Member State level during the study, it emerged that the application of penalties to the responsible operator is a complex task in some cases. In particular, owing to the possible deterioration of olive oil over time (namely in case of incorrect storage and transport conditions or ageing process), the downgrading of the product classification could also be caused by actions taken by retailers.

However, this does not seem to be a problem in all Member States. For instance, in *Portugal*, in the context of producer-retailer relationships, when olive oil from a certain producer is subject to official controls at retail level, the determination of the responsibility towards the product between the two operators involved, in general, does not raise any particular issue, with the producer generally taking responsibility for the product. Conversely, in *Spain*, national law sets out that, in the case of identification of a non-conformity, the penalty is applied to the producer if the olive oil is in bulk or to the packer/retailer in the case the product is bottled.

Timing of sanctions

Survey results showed that the **time period elapsing between the moment when the check is performed and the moment when the penalty is applied** may span from a few days (*Estonia*) to a few years (F*rance, Portugal* and *Spain*). In general, the timing depends on the situation, the severity of the case and the type of penalty to apply. In case the conformity check leads to the application of criminal/judicial sanctions, the time lapse is generally far more extended: depending on the specificity of the national judicial systems and the workload of national courts, in some Member States (e.g. *Italy, Portugal*) trials can last for several years.

Non-conformities qualifying as frauds

As for the determination of frauds, the approach followed by competent authorities at Member State level may vary from case to case, although in-depth investigations are generally needed in order to prove, for instance, the intention by the concerned business operator to deceive and in order to evaluate the responsibility of the different stakeholders (retailers, suppliers, etc.).
Based on the results of the survey of national competent authorities, Member States generally establish that a non-conformity is intentional (i.e. has been deliberately committed) through the following actions:

- Rigorous investigations on the operator's premises and cross-checks on the results (organoleptic, chemical, traceability, etc.); particular care is applied to operators involved in the detection of previous non-conformities.
- Inspection of official documents (e.g. financial data, invoices etc.).
- Additional sampling to establish whether the whole batch to which the product belongs is affected by the same type of non-conformity.

Owing to the current lack of a common definition of "food fraud" at EU level, Member States tend to rely on their national legal orders and traditions to determine when such a fraud occurs. In spite of the different approaches that exist across EU Member States, it can be said that, in general, a non-conformity may be considered as a fraud whenever one or more of the following elements occur:

- The business operator intentionally adulterates, substitutes or dilutes the product (e.g. addition of colorants to vegetable oil).
- The conduct of the business operator is motivated by a monetary gain.
- The same conduct has the objective of deceiving the consumer.

Against this background, in *Spain*, the intentionality is an essential criterion used by the national competent authorities to determine whether a given commercial practice accounts for a fraud, meaning that the mere negligence of a business operator is not sufficient to that effect. Conversely, in *Poland*, the national competent authorities do not investigate whether the conduct of the business operator is deliberate: when imposing a financial penalty, the Polish authorities only take into account whether and to what extent consumer interests have been affected.

Member States' own assessment of national penalties systems

15 out of 23 surveyed Member States consider the penalty system implemented in their country to be effective, dissuasive and proportionate, as requested by EU legislation, in order to address *simple non-conformities*. 18 out of 23 surveyed Member States deem that their penalty system is effective, dissuasive and proportionate, as requested by EU legislation, to address *non-conformities that may qualify as fraudulent practices*. Globally, 11 out of 23 surveyed Member States deem that their penalty system is effective, dissuasive and proportionate to sanction *both simple non-conformities and non-conformities that may qualify as fraudulent practices*. The related survey results are illustrated in Table 3.8.

Table 3.8 – Opinion of national competent authorities on the current respective national penalties system

Member State	National penalties system is considered effective, dissuasive and proportionate as requested by EU law to address simple non-conformities	National penalties system is considered effective, dissuasive and proportionate as requested by EU law to address non-conformities that may qualify as fraudulent practices
Austria	Yes	Yes
Belgium	Yes	No
Cyprus	Yes	Yes
Czechia	No	Yes
Denmark	No	Yes
Estonia	No	Yes
Finland	No	Yes
France	Yes	Yes
Germany	Yes	Yes
Greece	Yes	No
Hungary	No	Yes
Ireland	No	Yes
Italy	Yes	Yes
Latvia	Yes	Yes
Lithuania	Yes	No
Netherlands	Yes	Yes
Poland	Yes	Yes
Portugal	No	Yes
Slovakia	Yes	Yes
Slovenia	Yes	No
Spain	Yes	Yes
Sweden	No	No
United Kingdom	Yes	Yes

Source: Areté survey of national competent authorities

3.4 Cooperation practices

3.4.1 Cooperation practices with the EU (the system of notification)

According to Article 8(2) of Commission Regulation (EEC) No 2568/91 of 11 July 1991, Member States are required to notify to the European Commission the results of the conformity checks on an annual basis. The reports sent by Member States to the European Commission must contain the results of the conformity checks carried out on olive oils during the previous calendar year. The results of conformity checks must be presented according to the templates set out in Annex XXI of Commission Regulation (EEC) No 2568/91 of 11 July 1991.

Depending on the organisation of controls, the national competent authority in charge of compiling Annex XXI might need to gather information on controls performed at decentralised level. This is the case of *Spain*, *Portugal* and *Germany*, where the controls are performed respectively by Autonomous Communities (*Spain*), regional offices of the central competent authority (*Portugal*) and federal states (*Germany*). In *Italy*, local officers constantly record the results of checks in a specific document visible from the central office, therefore the elaboration of annual reports does not require specific requests from the central to the local level of the control system, but only the elaboration of data already available at central level. In *France*, the process is more complex, since the central administration (*Direction générale de la concurrence, de la consommation et*

de la répression des fraudes - DGCCRF) needs to perform a two-stage process. Initially it has to collect the results of the analyses from the laboratory; once the central administration gets the results, it has also to request to the regional administrations the local actions and sanctions for non-compliant results.

In some cases, data on conformity checks collected by Member States need to be depurated of all the information items that should not be included in Annex XXI, because they concern the results of controls performed for other purposes (e.g. the results of controls performed for export certification purposes are not taken into account for the compilation of Annex XXI), or because data refer to controls that - for various reasons - are considered as non-completed, and cannot hence be reported in the Annex. For instance, the latter case emerged in *Italy* where, according to the national competent authority, the current number of checks communicated to the European Commission through Annex XXI is considerably underestimating the actual number of controls performed on the Italian supply chain of olive oils. The reason behind this discrepancy is the fact that only data for completed controls - i.e. controls consisting of all the three phases, namely (a) label control, (b) physico-chemical analysis, (c) organoleptic assessment - can be included in Annex XXI. In many cases, however, the Italian authorities actually perform only some of the checks foreseen in the three phases. Furthermore, different aspects of the sample are checked, not all of which can be traced back to the quality controls to be carried out under the two Regulations under study. This implies that many checks on olive oils are carried out annually in *Italy* (between 4,000 and 6,000 checks in recent years), but only a small share of those checks is notified to the European Commission via Annex XXI.

In addition, the notification system has revealed the need to harmonise and share better practices and triggered the setting-up by the European Commission of a dedicated Experts Group of the national competent authorities (annual workshop meeting). In general, these workshop meetings have been positively judged by the competent authorities of participant Member States.

3.4.2 Cooperation practices with other Member States and verification requests process

According to Regulation (EU) No 29/2012, when irregularities are detected on an olive oil whose manufacturer, packer or seller is located in the territory of another Member State, the controlling Member State should submit a request for verification to the national competent authority(ies) of the concerned Member State(s). The Administrative Assistance and Cooperation (AAC) system is the main channel for sending and receiving verification requests to and from other Member States.

The AAC system allows to exchange electronically information on non-compliances of EU food law that do not entail a safety issue and concern at least two Member States (i.e. have a relevance for the EU market) or formulate a request for assistance. In other words, the verification system offers the possibility to national competent authorities to notify non-conformities with cross-border relevance. However, it should be stressed that the scope of the AAC system is broader than the specific legislation on conformity checks on olive oils (i.e. Commission implementing Regulation (EU) No 29/2012 and Regulation (EEC) No 2568/91). In fact, the AAC system covers the entire food chain and competent authorities can send a verification request for any irregularity detected (e.g. general food labelling rules, food contact materials requirements, etc.).

The AAC system is managed by DG SANTE. The follow-up is a responsibility of the Member State(s) concerned by the request[34].

Member States were invited to use the AAC system for the purpose of conformity checks in the olive oil sector only recently (2017): only some Member States have hence been able to provide elements for the description of the procedure activated following the receipt of a verification request from another national competent authority. According to the results of the survey of national competent authorities, the actions taken following a request for verification from other Member States regarded:

- Official inspection at the concerned facilities.
- Sampling of the same product (even if with different lot number) meant to be marketed to the same Member State.

[34] Pursuant to Article 6 of Commission Implementing Decision (EU) No 2015/1918, requests should be closed after 6 months of inactivity.

- Checks on all labels of the business operator concerned by the request for verification.
- Issue of a warning to the concerned operator.
- Request of further information on the traceability of the product.

The majority of Member States never received a request for verification, therefore they do not have experience on the sampling procedures following this kind of request. Some Member States that received verification requests use the same process that they implement at national level, but in general, the procedure can be outlined as follows:

- The national contact point receives the request for verification.
- A notification to perform the conformity check is sent to the competent office (local or national, depending on the country).
- The operator is inspected and samples of the specific product are taken and tested.
- The result of the checks is communicated to the Member State that started the procedure by sending the request for verification.

The procedure **to reply to a request received** in the framework of the AAC system has been clearly described for all the main producing Member States (i.e. *Greece, Italy, Portugal* and *Spain*) as follows:

- In *Italy*, the actions taken after a verification request is received through the AAC system are the following:
  - The two competent authorities for managing the system analyse the request and take a coordinated decision to assign the file to one of them, depending on the type of received request.
  - The request is assigned to the local office of the relevant competent authority, which is competent for the territory where the involved operator is located. The local inspectors perform the needed controls on the concerned operator: a sample of the same product is collected for performing physico-chemical analyses and organoleptic assessment. In addition, all the labels of the concerned business operator, related to the request for verification, are checked. It should be noted that if the same batch where the non-compliance was originally detected is not available anymore, controls are performed on a different batch, preferably directed to the market of the Member State that sent the verification request.
  - In conclusion, a reply to the request is compiled using the AAC system and the received requests for verification are used as a risk element in planning the future control activities.
- Similarly to *Italy*, the request received at central level in *Spain*[35] is forwarded to the relevant Autonomous Community. The control body of the Autonomous Community visits the place of production and performs the necessary checks. During those checks, also other aspects are controlled (e.g. overall traceability through the analysis of all relevant documentation). The results of the checks as well as the necessary corrective measures taken are then recorded again in the AAC system.
- In *Greece* the process is managed at central level: following each received request, the action taken is an official audit at the concerned facilities. The process of sampling following a request for verification (organisation, planning and collection of samples) is the same as the one implemented during the ordinary plan of checks.
- In *Portugal*, the competent authority implements specific internal procedures for a swift treatment of such requests: verification requests automatically trigger inspection and sampling and results are communicated to the Member State that solicited the verification request.

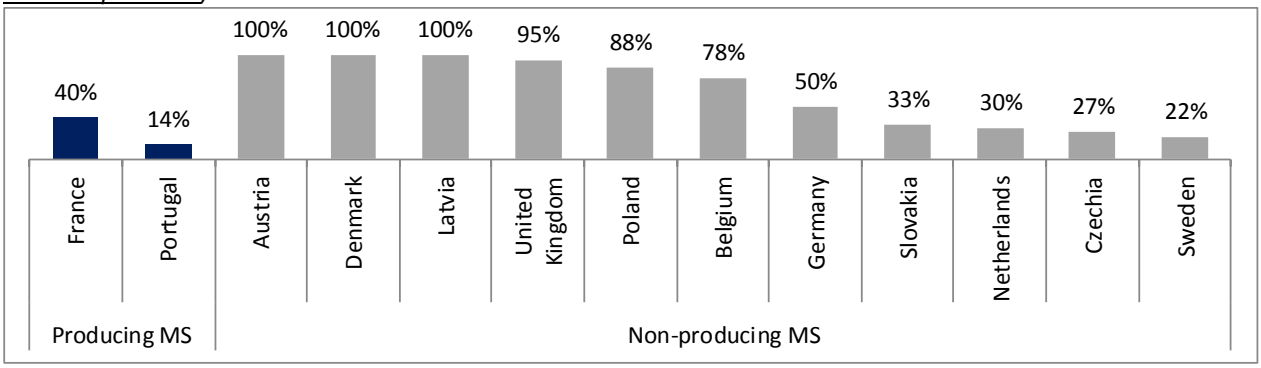
France has a more limited experience in dealing with verifications requests since it is a minor producer and exporter of olive oils.

[35] *Spain* received 7 verification requests by other Member States in 2018. Out of these 7 requests, 6 had been officially submitted though the AAC system (and notified to the Commission through the ISAMM form 000449), while the other one was received by email.

Figures 3.13 and 3.14 are based on the results of the survey of national competent authorities and show **the prevalence and the number of irregularities detected in 2018 by each Member State's authorities, which concerned an olive oil for which the manufacturer, packer or seller shown on the label, was located in another Member State**. It is worth noting that prevalence is closely related to intra-EU olive oil trade flows: Member States which are net importers of olive oils, and especially non-producing Member States, make more verification requests than Member States which are net exporters. In 11 out of 16 non-producing Member States at least a small share of non-conformities was detected on olive oils originating from another Member State. In *Austria*, *Denmark* and *Latvia* the prevalence reached the totality of the detected non-conformities. Also in *Germany*, *Poland*, *Belgium* and the *United Kingdom* the prevalence is quite high (50 to 95%), while in the other non-producing Member States it is lower than 35%.

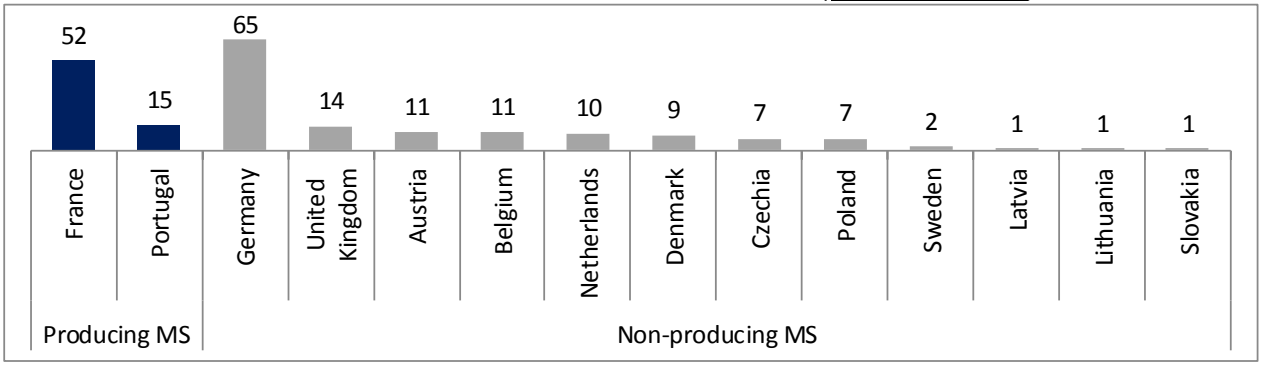
Among producing Member States, *France* is the one detecting more non-conformities (40%) that have origin in other Member States; *Portugal* follows with 15%. *France* is a minor producers of olive oils: it is hence reasonable to assume that since large quantities of olive oil from other Member States are consumed in *France*, the majority of the non-conformities are detected on imported olive oils. It should be noted that some Member States are not included in the figures below because they did not detect irregularities concerning an olive oil for which the manufacturer, packer or seller shown on the label was located in another Member State.

Figure 3.13 – Prevalence of detected irregularities concerning olive oil for which the manufacturer, packer or seller shown on the label was located in another Member State, in 2018 (in percentage of the non-compliant checked products)



Source: Areté survey of national competent authorities

Figure 3.14 – Number of detected irregularities concerning olive oil for which the manufacturer, packer or seller shown on the label was located in another Member State, in 2018 (in absolute terms)



Source: Areté survey of national competent authorities

The analysis of the survey results showed that 7 out of 23 surveyed national competent authorities have **sent at least one verification request** to other Member States for a total number of 45 verification requests sent. *Germany* sent the highest number of verification requests (20): half of them were addressed to *Greece*. Overall, *Greece* is the Member State to which the highest number of verification requests was addressed (15) by the Member States participating in the survey, followed by *Spain* (13 requests) and *Italy* (8). The number of

samples that have been subject to verification requests to other Member States in 2018 are reported in Table 3.9.

Table 3.9 – Number of samples that have been subject to requests for verification to other Member States in 2018

Member State	to Greece	to Italy	to Spain	to other Member States	Total
Germany	10	4	2	4	**20**
Czechia	2	1	3	1	**7**
Poland	2	1	4	0	**7**
Lithuania	0	1	1	2	**4**
United Kingdom	1	1	2	0	**4**
Greece	0	0	0	2	**2**
Slovakia	0	0	1	0	**1**
Total	**15**	**8**	**13**	**9**	**45**

Source: Areté survey of national competent authorities

Among the respondents to the survey, 6 Member States received a request for verification from another Member State in 2018. Three of them were producing Member States, i.e. *Greece, Italy* and *Spain*; these Member States received the majority of the requests (*Greece* and *Italy*: 11 each; *Spain*: 7). *Belgium*, *Czechia* and *Germany* received one verification request each. The number of verification requests received from other Member States in 2018 is reported in Table 3.10.

Table 3.10 – Number of verification requests received from other Member States in 2018

Producing / Non-Producing Member States	Member State	Samples
Producing Member States	**Greece**	11
	Italy	11
	Spain	7
Non-producing Member States	**Belgium**	1
	Czechia	1
	Germany	1

Source: Areté survey of national competent authorities

Regarding the follow-up to the verification requests sent, according to the results of the survey, 4 Member States out of 7 that have sent requests for verification to other Member States in 2018 received a feedback. Table 3.11 shows the number of samples concerned by a verification request for which a feedback from other Member States has been received in 2018.

Table 3.11 – Number of samples concerned by a verification request for which a feedback from other Member States pursuant to Article 8(4) has been received, in 2018 (in absolute terms)

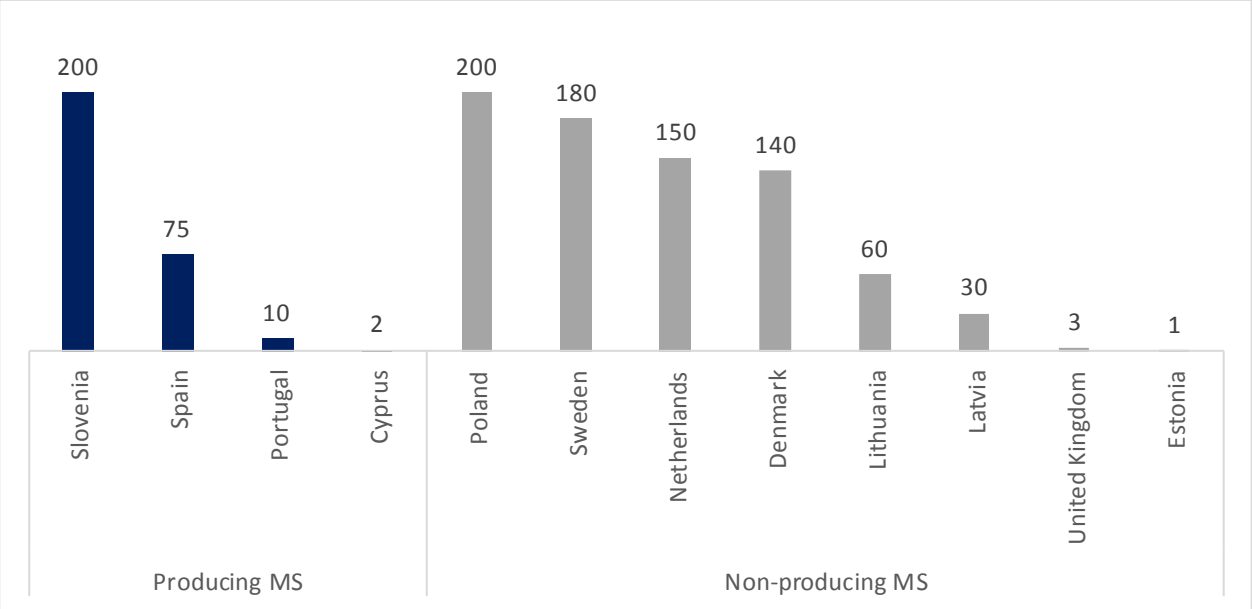
Producing / Non-Producing Member States	Member State	Samples
Producing Member States	**Greece**	1
Non-producing Member States	**Germany**	13
	United Kingdom	3
	Slovakia	1

Source: Areté survey of national competent authorities

Surveyed national competent authorities that had experience with non-compliant olive oil samples originating from another Member State in 2018 indicated the **average number of days for the notification to the Member State of origin** of non-compliant results (Figure 3.15). *Slovenia* and *Poland* are the Member States

planning the longest period for the notification to the other Member States. Overall no clear trend can be identified in the survey replies and the situation is quite diversified.

Figure 3.15 – Average number of days for the notification to the Member State of origin of non-compliant results, by surveyed Member State (in 2018)[36]



Source: Areté survey of national competent authorities

3.5 Communication around conformity checks in the olive oil sector

As for the **communication made by national competent authorities around conformity checks**, different implementing actions and sometimes diverging views emerged from the analysis of the situation in Member States covered by case studies. Table 3.12 summarises the key elements of communication around conformity checks in Member States covered as case studies.

Table 3.12 – Key elements of communication around conformity checks

Member State	Key elements
France	Results of conformity checks on olive oil are not regularly published but the national competent authority regularly communicates about the conformity checks on its website.
Greece	Annual reporting of results of checks ➔ the aggregate results of the conformity checks are published by the national competent authority in the year following the checks, and once the results have been communicated to the European Commission.
Italy	Annual reporting of results of checks ➔ published every year in Italian, English and Chinese on the website of the Ministry of Agriculture. Aggregated annual results of the official controls under the Multi Annual National Control Plan are also published.
Portugal	Annual reporting of results of checks ➔ since 2013 the national competent authority has been publishing aggregated annual results of its official controls under the Multi Annual National Control Plan on its website besides actively disseminating them in public events. *Ad hoc* communication activities occasioned by specific enforcement actions are conducted by the national competent authority whenever their results are considered to be of public interest.

[36] *Spain* indicated that the average number of days is between 60 and 90. The average (75) was used to build the graph.

Member State	Key elements
Spain	The central competent authority collects information from Autonomous Communities for the yearly assessment of the Multi Annual National Control Plan. When made available through the annual reports of the national competent authority, the information provided generally includes only the number of irregularities/infractions detected in the sector identified for the purpose of official controls (e.g. quality, organic, geographical indications amongst those which may be relevant for olive oil) and the relevant percentage of non-compliances, as opposed to the overall number of controls performed in that sector.
Belgium	Annual reporting of results of checks ➔ the national competent authority annually publishes an Activity Report, outlining the major activities carried out throughout the year. Concerning the olive oil sector, the report outlines the number of controls, the number of non-conformities detected and the penalties issued.
Denmark	Results of conformity checks on olive oil are not publicly available and are not published.
Germany	Results of conformity checks on olive oil are not available at national level. The competent authorities of some federal states (*Länder*) publish results of conformity checks, aggregated with the results of controls performed for the purposes of other provisions.
Poland	Annual reporting of results of checks ➔ the general results are published in the annual reports of the national competent authority.

Source: European Commission

In addition to the above summary, the following elements on the communication around conformity checks should also be considered:

- In several Member States the activities related to conformity checks and the results of those checks are periodically made available to the general public. This is the case in *Italy*, where the competent authority publishes an annual report on control activities and on the results of each inspected agro-food sector, including the olive oil sector. The report is available in Italian, English and Chinese and is the key public source of information on conformity checks available at national level[37]. In addition, the Italian competent authority also publishes an annual report on the results of the Multi Annual National Control Plan (PNI), reporting all the activities carried out by all control bodies involved in the Multi Annual National Control Plan, and the related results. In *Portugal*, the aggregated results of all conformity checks are not public, but the competent authority publishes aggregated annual results of official controls performed under the plan of official controls on food retail operators (PNCA) by product category. In *Belgium* the competent authority annually publishes an Activity Report, outlining the main activities carried out throughout the year. With respect to the olive oil sector, the Activity Report outlines the number of controls on authenticity and designations performed in the olive oil sector. Furthermore, the number of non-conformities detected and of penalties issued are reported. A similar communication process is also followed by the competent authority for *Poland*. In *France*, the competent authority regularly communicates about the conformity checks on its website, even if no annual report is elaborated. In *Greece*, the aggregated results of the conformity checks are published by the competent authority in the year following the checks, and once the results have been communicated to the European Commission.
- In *Portugal* (but it cannot be excluded that this happens also in other Member States), *ad hoc* communication activities (e.g. press releases or press conferences) occasioned by specific enforcement actions conducted by the competent authority are also performed whenever their results are considered to be of public interest.
- In *Spain*, each Autonomous Community has its own database of controls and reports information to the central competent authority, which elaborates an annual report with the results of control activities on all

[37] A special communication department also exists within the Italian competent authority. This department is in charge of all communication activities.

agro-food sectors. The report provides information on the irregularities and infractions detected for olive oil, but does not give information on the type of infractions detected, or on the penalties imposed, which are not communicated by Autonomous Communities to the central competent authority. The results of controls are not published in order to avoid alarming the public or damaging the sector.

Information on individual check results or on individual sanctions imposed is never published, mainly due to protection of confidentiality of business data. In addition, special attention is often given to the protection of the name of the operators targeted by control activities. Nevertheless, it emerged from the analysis that media sometimes published information on individual cases, usually against the will of competent authorities or due to communication mismanagement from their side (this happened for instance in *Denmark*). The overall view of the consulted stakeholders about the possibility to disclose information on individual cases to the public is quite negative. Besides the need of protecting the confidentially of data concerning individual operators, according to several competent authorities - including EU-level ones - the publication of this kind of information could damage the reputation of the olive oil sector as a whole unless it is appropriately structured, contextualised and explained.

As for communication around the **results of conformity checks at EU level**, the results communicated on an annual basis by the national competent authorities to the European Commission are not publicly available. In addition, national competent authorities do not have access to data notified by other Member States. DG AGRI currently shows the results of notifications in a summary report during a meeting with all the national competent authorities, but detailed data are neither physically nor digitally shared with them. The reason behind the non-publication of data received through the notification system is that so far the European Commission has not developed an appropriate strategy to communicate the aggregated results of the checks without potentially misleading the general public. In fact, communicating the results aggregated at Member State level could lead to the wrong conclusion that Member States where a high number of non-conformities is detected are countries where domestically produced and/or imported olive oil is on average of low quality. Indeed, the reason behind a high number of detected non-conformities could also be that controls are more targeted because the risk analysis is better performed than in other Member States, or that, more in general, controls performed in a Member State are more effective and efficient than those performed in other Member States. The results of the checks should also be compared to the overall number of checked samples: Member States that perform a high number of controls might in fact detect a higher number of non-conformities. Also for the Member States performing very few controls, a high level of non-conformity would not be at all representative. An additional element to be taken into account is that appropriate communication of results should also be able to inform consumers about the different types of non-compliances recorded: from a consumer's perspective, labelling issues can be less serious than non-compliance on the classification of oil. According to DG SANTE, sharing information with the public might pose challenges and cause damage to the concerned stakeholders.

In general, DG AGRI is in favour of publishing aggregated results of conformity checks; to do that, however, it is necessary to analyse what the public can understand about those results, and to identify the best communication method that can be applied for such purpose. It is of fundamental importance to assess the impact of communication, to properly handle it and to correctly explain the aggregated results of conformity checks to the public, in order to put those results in the correct background context. The publication of data should be considered only if this action does not mislead consumers, in particular where consumers are not informed on differences amongst the various olive oil categories, a problem identified in *France, Poland* and *Italy*.

3.6 Coherence between the conformity check system in the Member States covered by case studies and the relevant EU legislation

No major problems in terms of coherence between national legislation and EU legislation on conformity checks have been highlighted by the consulted EU and national competent authorities. In general, the olive oil sector can be considered as sufficiently regulated at EU level.

4 THEME II - IDENTIFICATION OF NEEDS

4.1 Extent to which objectives are currently achieved

The current EU framework regulating conformity checks in the olive oil sector has been designed with a view to achieving three different, though intertwined, overarching objectives. These are:

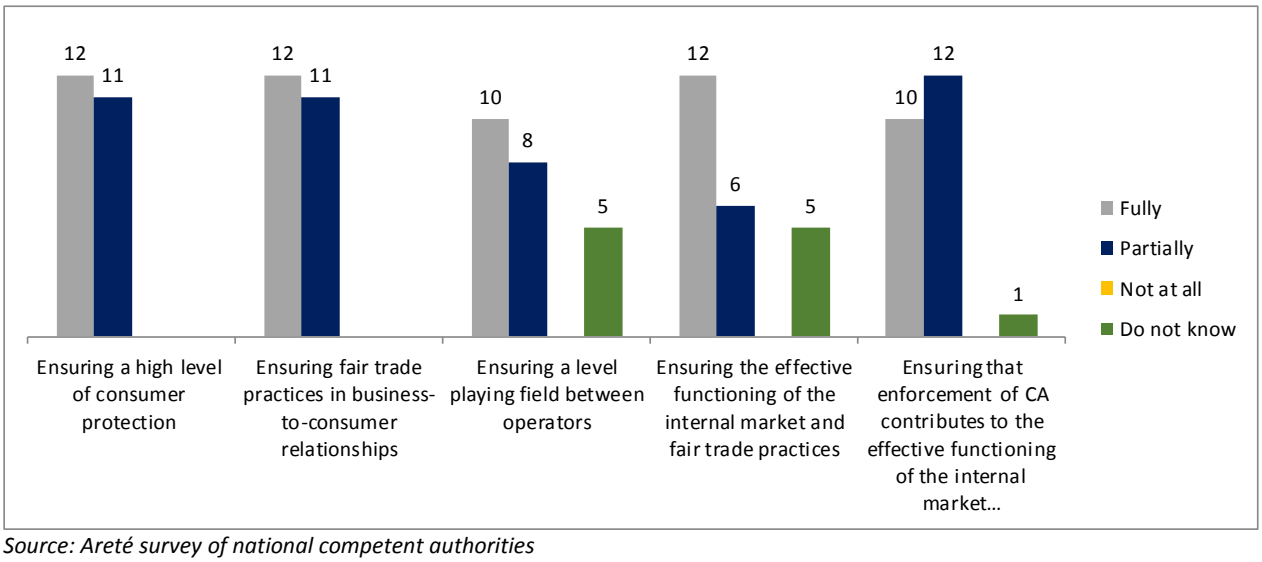
- A high level of consumer protection, by ensuring that consumers receive reliable, meaningful and comparable information about the quality of olive oil they purchase on the EU market.
- A level-playing field between business operators of the olive oil sector in the EU, by requiring that they operate against a common set of harmonised quality standards and, in so doing, favouring conditions of fair competition in the relevant market.
- The good functioning of the internal market, by eliminating and/or minimising barriers and obstacles to trade exchanges in olive oil between EU Member States.

Against this background, the aim of this paragraph is to provide an assessment of whether and to what extent the EU conformity checks system has lived up with its intended objectives, mainly based on the perceptions of the consulted stakeholders.

In particular, the survey targeting national competent authorities was designed to gather - among others - qualitative evidence as to whether and to what extent the aforementioned objectives have been concretely met to date. Figure 4.1 illustrates the survey results (based on the replies provided by 23 national competent authorities) with reference to five different sub-objectives, i.e.:

- achievement of a high level of consumer protection;
- achievement of fair practices in business-to-consumer (B2C) relations in the EU market;
- achievement of a level-playing field between business operators in the olive oil sector;
- degree of effectiveness of the functioning of the internal market and fair practices; and
- extent to which national enforcement has been contributing towards the effective functioning of the internal market.

Figure 4.1 – Achievement of objectives pursued by the EU framework on conformity checks in the olive oil sector



Source: Areté survey of national competent authorities

The results of the survey of national competent authorities presented in Figure 4.1 above are analysed in greater detail in the following sections and complemented, as appropriate, by further evidence collected through in-depth interviews with relevant stakeholders and national case studies.

4.1.1 Consumer protection and fair trade practices in business-to-consumer relations

Extra virgin olive oil is a quite expensive product and increasingly sought for by consumers for its quality and nutritional properties: for those reasons, it has been the object of the attention of consumers' associations. In addition, given the usually high price of extra virgin olive oil, the trust of consumers towards the quality of the products they purchase is essential to ensure their marketing. The views related to the achievement of the objectives of the provisions under study in relation to consumers are quite differentiated according to the type of stakeholders consulted and also their geographical location. The key positions emerged from the assessment are illustrated below.

Based on the results of the survey of national competent authorities, **12 surveyed national competent authorities out of 23 (52%) consider that the current EU framework for conformity checks in the olive oil sector has fully ensured the achievement of a high level of consumer protection and fair practices in business-to-consumer (B2C) relations on the EU market.** The remaining 11 national competent authorities consider that this objective has been partially achieved so far. No surveyed national competent authority indicated that the current conformity checks system has completely failed to achieve those objectives.

Based on evidence gathered through national case studies, the main reasons behind the claim that the current system provides EU consumers with adequate protection are the following:

- An improvement in the overall quality of olive oil (highlighted for instance in *Spain* and *Portugal*) and in labelling practices (highlighted for instance in *France*).
- A reduction in the prevalence of fraudulent practices (emerged for instance in *France* and *Spain*) as well as the low number of consumer complaints (highlighted for instance in the case of *Greece*).

By contrast, the high rate of non-compliances triggered by national conformity checks (emerged for instance in *Denmark* and *Belgium*), olive oil exposure to fraud (highlighted for instance in *Germany* and *Poland*) and difficulties to target specific business-to-consumer marketing modalities such as direct sales and e-commerce (emerged for instance in *France, Italy* and *Portugal*) are amongst the reasons behind the assertion that the current EU system is only partially satisfactory from a consumer protection standpoint. For instance, consulted stakeholders in *Denmark* do not deem that the system of conformity checks provides consumers with adequate assurance about the quality of a specific olive oil.

Consulted stakeholders in a few Member States (e.g. *France, Italy, Poland*) also referred that the level of consumer protection ensured by EU legislation in the olive oil sector is still hampered in practice by the limited capability that most consumers have in distinguishing the organoleptic characteristics of the different olive oil categories present on the market.

National consumer organisations in producing Member States such as *Italy*, *Portugal* and *Spain* overall value positively the effects that the performance of conformity checks has produced on the quality of the domestic production. In addition, consulted consumer organisations in *Spain* and *Germany* deem that conformity checks have positively contributed to reducing the most serious cases of frauds, such as marketing of lampante olive oils, olive-pomace oils and seed oils as virgin olive oils or extra virgin olive oils. There are however some aspects of the system that can be improved. In *Italy* and *Spain*, for instance, the practice of non-disclosure of the name of the operators marketing products ascertained as non-compliant negatively affects the right of consumers to make an informed choice. In *France*, the fact that olive oils are often controlled by competent authorities well before the expiration of their minimum durability exposes consumers to the risk of purchasing products of inferior quality, due to their ageing, especially when physico-chemical values resulting from the laboratory analysis performed were close to the limits set by EU law. As far as non-producing Member States are concerned, in *Belgium* the national consumer organisation claims that the current number of conformity checks performed by the national competent authorities is not sufficient to tackle fraudulent practices affecting olive oil.

In several Member States (for instance, *Belgium, France*, *Italy*, *Portugal* and *Spain*) consumer associations perform *ad hoc* comparative tests on olive oils from time to time. The aim of these checks is mainly to establish whether the "extra virgin" indication on the label is correct. To this end, tests carried out by consumer associations involve physico-chemical analyses and organoleptic assessment, which are aimed at verifying that the marketed olive oil matches the product name indicated on the package. With a view to being a credible source of information and withstand public scrutiny, these tests tend to be performed in

accordance with the requirements laid down by EU legislation on conformity checks, although some national variations occur. For instance, in *Portugal* tests performed by the national consumer organisation take into account additional quality criteria that are not foreseen by EU law. *Spain* is the only Member State to have a specific national legislation regulating tests run by consumer organisations.

4.1.2 Level playing field, effective functioning of the internal market and fair trade practices

As for the achievement of the objectives of fair competition among business operators in the olive oil sector and of good functioning of the internal market, the results of the survey of national competent authorities are less homogenous compared with those on the level of consumer protection ensured by conformity checks on olive oils (see § 4.1.1).

43% of the surveyed national competent authorities assessed positively the impact of EU conformity checks on olive oil in facilitating the creation of a level-playing field among business operators in the sector, while 35% indicated that this objective has been met only to some extent. While no national competent authority indicated that the objective has not been achieved at all, 5 national competent authorities (for 4 non-producing Member States plus *Greece*), i.e. 21% of the surveyed ones, were not in the position to express their views in this respect.

A higher share of surveyed national competent authorities (52%) indicated that EU conformity checks have positively contributed to the functioning of the internal market, while 26% of the surveyed national competent authorities deemed that the system has done that only to some extent. Also in this case, 5 surveyed national competent authorities (again, for 4 non-producing Member States plus *Greece*) were not in the position to formulate their views on this specific aspect of the study.

Finally, when asked to what extent national enforcement has contributed towards the effective functioning of the EU internal market, most of the surveyed national competent authorities (52%) responded that this has happened only to some extent, while for 43% the contribution has been fully positive. Only 1 Member State (*France*) did not express any view in this regard.

Evidence gathered from case studies suggests that **business stakeholders in producing Member States** (e.g. *France, Italy, Portugal, Spain*) **tend to evaluate more positively the consequences stemming from the organisation and carrying out of conformity checks by the respective national competent authorities**, as opposed to those in non-producing Member States. Overall, for business stakeholders of producing Member States conformity checks contribute to the improvement of olive oil quality, besides increasing consumer confidence in the whole system.

As regards the **negative impacts of the EU conformity checks system on business stakeholders of the olive oil sector**, the consulted stakeholders point out to a relatively broad range of issues that vary in accordance with the specific national context. Those issues have been identified in both producing and non-producing Member States.

More specifically, organoleptic assessment is regarded as a too subjective and therefore unreliable analytical method by business operators in *France, Portugal* and *Spain*: the issue determines great variability of results at national level and across Member States. From a *French* perspective, in particular, EU conformity checks do not take into account the peculiarities of national olive oils recognised as PDOs, often resulting in their downgrading to lampante oil. Moreover, in *Greece*, currently there would be no level-playing field amongst business operators of the olive oil sector insofar conformity checks largely focus on bottled olive oil and not sufficiently on olive oil sold in bulk (both for export and for bottling before direct sale to final consumers), which is a key market segment at national level. In *Denmark*, conformity checks on retailers have been subject to long timelines and inefficiencies in the past (e.g. prohibition to sell the product until checks are completed), besides leading in certain cases to very costly multi-country market withdrawals. Likewise, duration of conformity checks and costs associated with them are the main issues affecting negatively business operators in *Poland*. Finally, the fact that in certain Member States (e.g. *Belgium, Germany, Poland* and *Portugal*) food fraud is currently not a priority for the respective national legal systems, and it is hence not adequately regulated, sanctioned and/or easy to enforce, is also a reason of concern for legitimate business operators.

4.2 Problems/gaps in the implementation of the conformity checks system

The following paragraphs provide an overview of problems and gaps that have been identified with regard to the current implementation of EU conformity checks at national level. The analysis is mainly based on the consultation of Member States' competent authorities (carried out through a dedicated survey, in-depth interviews and national case studies). A distinction between producing and non-producing Member States is made wherever possible.

Figure 4.2 provides an overview of the replies given by 23 surveyed Member States' competent authorities, with a view to singling out problems and gaps in the implementation of conformity checks at national level. In the next paragraphs, the analysis of the main problems and gaps identified through the survey is completed by additional evidence and insights emerged from interviews and national case studies.

Based on the results of the survey of national competent authorities, problems and gaps seem to vary from one Member State to another depending on national specificities. Nonetheless, some issues are relevant for several Member States. This is the case, for instance, for both the **availability of qualified experts to integrate tasting panels** as well as the **availability of funding for tasting panels**, which were highlighted as problems/gaps by around 1/3 of the surveyed national competent authorities. Not surprisingly, these issues were flagged out by the national competent authorities of non-producing Member States in all cases except one (i.e. *Slovenia*). Another area where several national competent authorities signalled gaps and problems as regards national implementation concerns the **organisation of information campaigns and communication activities around results of conformity checks**. This aspect constitutes an issue, again, for around 1/3 of the surveyed national competent authorities (again, all based in non-producing Member States except for *Slovenia*). Furthermore, 7 national competent authorities declared not to have enough **staff to deal with cross-border infringements** detected by conformity checks in the olive oil sector, including the **handling of verification requests**. This problem applies mostly to non-producing Member States but is also relevant for three producing Member States (notably *Cyprus, France* and *Spain*). 6 surveyed national competent authorities also flagged the **inadequacy of staff for planning and performing conformity checks** as an issue.

Finally, the national competent authorities for 5 non-producing Member States (including *Denmark* and *Poland*, which were also covered by national case studies) referred that the **level of technical knowledge of their staff about marketing standards for olive oil** is an issue affecting negatively the implementation of conformity checks at national level. Likewise, the **adequacy of laboratory capacity and laboratory equipment** was identified as an issue in 5 non-producing Member States (including *Belgium* and *Denmark*, countries covered by *ad hoc* case studies), together with the **availability of online registries and relevant databases** for facilitating the organisation of activities concerning conformity checks on olive oils.

Figure 4.2 – Implementation gaps and problems

A. Absence of clear allocation of responsibilities and tasks within the CA or among the different CAs involved		2
B. Inadequate number of staff within the CAs for performing the following tasks:	Risk analysis	3
	Planning and performance of conformity checks	6
	Dealing with infringements with cross-border relevance (e.g. as in the case of verification requests)	7
	Investigating suspected fraudulent practices and devising appropriate solutions to prevent, combat and punish them	5
	Enforcing the system of penalties	3
	Handling complaints from consumers and other stakeholders	3
C. Inadequate skills and training of staff within the CAs with respect to the following aspects:	Technical knowledge on quality standards in the olive oils sector	5
	Appropriate skills (also including IT skills and linguistic skills) for managing the cooperation tools	5
D. Gaps in the availability of appropriate facilities and technical capabilities, and specifically lack of:	Adequate laboratories and laboratory equipment	5
	Effective sampling process	1
	Accreditation system in place	1
	Qualified experts for tasting panels	7
	Online registries and relevant databases which can facilitate the organisation of the work	6
E. Gaps in the availability of funding for the following aspects:	Fraud prevention and repression	4
	Laboratories	4
	Tasting panels	8
	Information campaigns / effective communication on the results of conformity checks	8
F. Absence of /Low legal certainty stemming from the EU legal frameworks governing marketing standards for olive oils and the associated conformity checks		2
G. Absence of /Low legal certainty stemming from national legal frameworks governing marketing standards for olive oils and the associated conformity checks		1
H. Lack of adequate enforcement powers to Cas		0
I. Lack of adequate sanctions in case of a) non-conformity b) frauds		1
J. Other problems/gaps		3

Source: Areté survey of national competent authorities

By contrast, only few surveyed national competent authorities highlighted performance of sampling, accreditation of laboratories for analytical methods relevant to quality of olive oil, and sanctions for non-conformities and fraudulent practices as problematic aspects of the implementation of the EU conformity checks system. None of the surveyed national competent authorities highlighted the lack of enforcement powers as a problem negatively affecting the performance of conformity checks in the olive oil sector in their countries.

Some specific examples of problems and gaps in terms of national implementation, as emerged mostly from in-depth interviews and national case studies, are illustrated in more detail in the following paragraphs. The analysis covers organisational (§ 4.2.1), legal (§ 4.2.2), technical (§ 4.2.3), financial (§ 4.2.4) and other problems and gaps (§ 4.2.5).

4.2.1 Organisational problems/gaps

The main organisational problems and gaps identified via the case studies relate primarily to the:

- Coexistence of, and coordination among, several national (and in some Member States, also regional/local) competent authorities with regard to the planning and the performance of conformity checks.
- Lack of staff to carry out conformity checks.
- Average duration of conformity checks until their completion.
- Timing of conformity checks / keeping the timeline of control activities.
- Scope of conformity checks.

Coexistence of and coordination among more competent authorities at national level

The existence of several competent authorities in charge of the organisation and carrying out of conformity checks and their effective coordination is currently regarded as a problem by various Member States. This issue is particularly evident in Member States with complex administrative structures such as *Spain* and *Germany*.

In *Spain* there are currently over 20 competent authorities between the central and regional level (Autonomous Communities / *Comunidades Autónomas*) that are involved in the organisation and the performance of conformity checks in the olive oil sector. Autonomous Communities play an important role in the system of conformity checks. This makes difficult, especially for the central competent authorities, to ensure coordination and gather data and information, resulting in delays, *inter alia*, in the handling of verification requests received by other EU Member States and in the annual notification of results of national checks to the European Commission.

Similar difficulties emerged in *Germany* with regard to the coordination between the federal and the regional authorities (*Länder*), leading, in some instances, to the overlapping and duplication of activities by the latter (e.g. sampling of the same product). The German system of conformity checks is funded by the federal government, which allocates the needed resources to regional competent authorities. Each regional competent authority carries out the inspections in the related federal state. After controls at regional level have been performed, the results are then forwarded to the federal authority, which is in charge of the annual notification of results of national checks to the European Commission. In the light of the central role played by both national and regional authorities in *Germany*, an essential aspect is the cooperation and exchange between those authorities, which can in itself be considered as a challenge for the effective and efficient performance of conformity checks in the country.

France also indicated that the performance of conformity checks by regional/local authorities impacts negatively on the swiftness of communication of results to the central authorities and in turn to the European Commission.

Lack of staff

Lack of staff and namely of inspectors to carry out conformity checks was also identified as an issue in some Member States (e.g. *Belgium, France, Portugal* and *Spain*) either at central or local level and, in certain instances, is directly linked with the lack of financial resources (§ 4.2.4).

Average duration of conformity checks

In *Denmark*, the alleged complexity of the conformity checks system and the lack of official laboratories at national level makes that the duration of a single check may take up to 120 days. Delays exceeding the average turnaround times of laboratory are also experienced in *Spain* in the area of export controls, whereas in *Poland* delays are due to the fact that tasting panels of other Member States are used for organoleptic assessment and sworn translations of analytical results are required.

Timing of conformity checks

The period of the year during which conformity checks are performed, in the case of certain Member States, leads to some undesired consequences.

For instance, in *Belgium*, each year conformity checks are mostly concentrated in autumn (October-November). According to some stakeholders interviewed for the case study, the timing chosen by the competent authorities is not representative as products sampled and analysed might have been on the market already for one year. Depending also on the appropriateness of storage conditions at retail level, this may well increase the likelihood of products developing quality defects that initially were not present.

In the case of *Germany*, conformity checks take place normally from March to December each year. However, each federal state eventually determines its own calendar for conformity checks. For that reason, and also due to the workload of national laboratories, delays in the collection of data on conformity checks were experienced by the federal authorities in view of the annual submission of results to the European Commission, with consequent difficulties in keeping the reporting deadline (May 31, as foreseen in Regulation (EEC) No 2568/91).

In *Greece*, delays in the notification process to the European Commission have been experienced mostly because conformity checks on national mills run each year from October to March. The operational cycle of Greek crushing mills generally lasts from mid-October to the end of March: this makes the collection of samples during the entire year difficult, leading to a situation where at the end of the year laboratories have too many samples to process. This leads to delays in reporting the results of conformity checks to the European Commission.

Difficulties in keeping the timeline of control activities in *Spain* were mainly related by the consulted competent authorities to inadequate availability of human resources to perform the collection and analysis of samples.

Scope of conformity checks

The case studies revealed that in certain Member States there would be issues regarding the adequacy of conformity checks in terms of market coverage having regard to the specific production and marketing modalities of olive oil at national level. Depending on the Member State, this is an issue that has been flagged by national competent authorities and/or industry stakeholders and that may bear relevance too in the perspective of risk analysis and staff availability.

Accordingly, in *France* and *Portugal*, while conformity checks currently cover direct sales by producers to consumers (e.g. road sales, local markets), these market channels represent a difficult target for national enforcement authorities and some consider that more should be done on that front. For *Portugal*, this issue concerns also online sales. In *Greece*, according to industry stakeholders, enforcement should be stepped up on olive oil in bulk, taking into account the substantial quantities exported from the country in that format, and also the fact that Greek consumers buy it too in such a format (see above at § 4.1.2).

4.2.2 Legal problems/gaps

Member States seem to experience as well a number of legal problems at national level. The main legal problems and gaps identified via the case studies relate primarily to the:

- Attribution of legal responsibility when a non-conformity is detected.
- Existence and/or adequacy of sanctions at national level.

Other legal issues are specific to the national context of only one Member State.

Business operator responsible for the non-conformity

One issue that various Member States (e.g. *Denmark, Italy, Portugal*) have reported concerns the attribution of responsibility towards a specific business operator for a non-compliance or a suspected fraudulent practice detected following the performance of a conformity check.

In *Italy*, for instance, this issue is faced in particular at retail level, although several olive oil producers (especially large ones, but also a number of medium-small ones) keep samples of their products on the market and are hence able to exclude their responsibility on that basis. Conversely, the same difficulties are faced in *Portugal* especially when checks are performed in mass-catering establishments as, in some instances, it is particularly difficult to determine with certainty if the non-compliance or the suspected fraud actually occurred in such establishments or upstream in the supply chain.

In the case of *Denmark*, in particular, it is not clear on the basis of which criteria the allocation of responsibility between retailers and olive oil producers should be done when checks reveal a non-conformity. Likewise, the type of enforcement action (e.g. market withdrawal, consumer recalls) and whether results of checks can be made public before counter-assessments are carried out are other legal issues impacting the implementation of conformity checks at country level.

Sanctions for non-conformities

Four Member States covered by the case studies also referred that sanctions for non-conformities or fraudulent practices in the olive oil sector are not foreseen or adequately designed for that purpose at national level. This is the case of *Denmark*, where currently there are no sanctions for labelling irregularities; the national system of penalties has been elaborated for all food products, and there are no specific penalties applicable to operators in the olive oil sector. In *Germany*, some stakeholders consider the national system of sanctions weak compared to other EU Member States, mostly due to some gaps in the legislation and the limited amount of financial penalties. In *Poland*, the national legal order is allegedly not equipped with an adequate set of provisions to tackle fraudulent practices in the agro-food chain in general. Finally, in *Belgium* and *Greece* sanctions for fraudulent practices are not designed to address the complexity that those practices often entail in an effective way. The Greek system of penalties, in particular, lacks a targeted approach to addressing cases of fraud: although adulteration is covered by the system, fraud requires a specific approach and fines are considered not dissuasive enough.

Other legal issues

In *Poland,* national law poses some legal challenges to the use of tasting panels located in other Member States when counter-assessments take place. In fact, Polish legislation on public procurements, which applies to the outsourcing of official control activities as in the case in hand, does not allow certain contractual arrangements (notably upfront payments and rates that are not fixed) that tasting panels in other Member States often apply.

4.2.3 Technical problems/gaps

The main technical problems and gaps identified through case studies relate primarily to:

- Training of staff.
- Organisation and performance of organoleptic assessment.
- Sampling for analysis.

Training of staff

The need to have staff in charge of the performance of conformity checks with appropriate skills is felt in various Member States. Amongst non-producing Member States, *Denmark* and *Poland* recognise that training of inspectors is not currently sufficient. The complexity of EU legislation on marketing standards for olive oil and on conformity checks (e.g. sampling, storage of samples, handling of verification requests) and the low level of knowledge of the olive oil sector are amongst the reasons why interviewees from these countries consider that more trainings and exchanges of best practices at EU level are needed to ensure more homogeneity in, and effectiveness of national implementation. Likewise, the consulted competent authorities in *Spain* observed that there is a need of more and better trained inspectors at the level of the regional entities (Autonomous Communities) in charge of the performance of conformity checks.

Organoleptic assessment

The organisation and the performance of organoleptic assessment on extra virgin and virgin olive oils represent probably the **most prominent technical issue across** the Member States covered by the different case studies.

On the one hand, in the case of some non-producing Member States (e.g. *Denmark, Poland*[38]), largely in line also with the results from the survey of national competent authorities (see Figure 4.2 above), the lack of tasting panels[39], the need to rely on panels from other Member States (both for the first set of analyses and for counter-assessments) and the lack of qualified experts to integrate national panels are regarded by the respective competent authorities as obstacles impairing the effective organisation of conformity checks at national level. This issue, conversely, is not reported by non-producing Member States that currently have national tasting panels (e.g. *Germany*).

On the other hand, in some producing Member States (e.g. *France*, *Portugal* and *Spain*), the organoleptic assessment would present some intrinsic technical flaws that need correcting. Industry players - in particular in *Spain* and to some extent also in *Portugal* - consider that the degree of subjectivity that organoleptic assessment involves is too high, often leading to inconsistent results across tasting panels and within the same panel. As such, the reliability of their results is considered as being limited, with national sectoral organisations calling for their exclusion from the set of analyses required to assess the quality of olive oil under EU legislation. Further to that, in *France* and to some extent also in *Spain,* organoleptic assessment is said not to be adequately designed to take into account the specific characteristics of PDO and other traditional local olive oils. In *France,* there is general criticism of the fact that the current outcomes of tasting panels do not include information about the margin of uncertainty. Private operators question the robustness of tasting panels as the results may differ from a panel to another. However, this difference can be explained by the margin of uncertainty for olive oils that are close to the limit parameters. It also emerged from the assessment that the consulted French competent authority questioned the relevance of having separate categories for extra virgin and virgin olive oils, due to the significant presence on the French market of oils downgraded from extra virgin to virgin after organoleptic assessment. However, the issue is contentious, as business stakeholders deem that the current categories are appropriate, also considering the high French market demand for extra virgin oil.

By contrast, the consulted competent authorities and business stakeholders in *Italy,* as well as the consulted competent authorities for *Portugal*, consider tasting panels a key pillar of the conformity checks system, which should not be put under discussion. Nevertheless, the training of panel members as well as the respect of the assessment procedure are deemed to be essential conditions to ensure the adequate performance of organoleptic assessment.

[38] In *Poland*, tasting panels are considered the most serious challenge of the conformity checks system, mainly because of their considerable costs, but also given the absence of tasting panels in the country, and the resulting increased average duration for completing controls (as many foreign tasting panels may be overloaded with requests). A further challenge is the translation of results (performed by a sworn translator), which are transmitted to the operators in Polish.

[39] In *Belgium*, some problems were highlighted by a consulted retailer in relation to the absence of a tasting panel. The retailer reported that different tasting panels inspecting samples from the same batches came up with diverging conclusions. Therefore, to avoid similar issues the retailer reiterated the importance of establishing a national tasting panel.

Sampling

For a few Member States, sampling for analysis represents a technical issue for the correct implementation of conformity checks, besides being an area where national authorities would benefit from specific training modules. Amongst the issues raised in this respect, the main difficulties revolve around ensuring homogeneity of sampling in the case of olive oil in large bulks or containers (the issue emerged for instance in *Spain*) and compliance with sample quantities required under EU law (the issue emerged for instance in *Portugal*). In *Denmark*, the limited awareness about the importance of adequately preserving samples for the purposes of counter-assessments was found to hamper sample quality in some cases, with potential adverse effects on the reliability of tests.

Other technical problems/gaps

Some consulted experts from German private laboratories observed that the analytical methods foreseen by EU legislation do not allow to detect all the possible fraudulent practices related to production and marketing of olive oils.

4.2.4 Financial problems/gaps

Financial problems and gaps emerged from case studies are mainly related to two issues:

- Lack of financial resources to carry out conformity checks.
- Costs associated with the performance of conformity checks.

The first issue concerns the **lack of financial resources at the level of Member States' competent authorities to carry out conformity checks**. This is a problem that affects a few producing and non-producing Member States but whose seriousness varies significantly depending on the national context. In general, it emerged that a high number of different controls are performed on olive oil compared to other food products. Olive oil appears to be a highly controlled sector if compared to other ones (e.g. honey, fruits and vegetables); however, controls to be performed in the different sectors "compete" for a limited amount of resources.

In a producing Member State like *Portugal,* the lack of financial resources was identified as the reason behind the fact that the staff for performing official control activities in the country is limited in number. This in turn leads to difficulties in ensuring appropriate coverage of all food sectors at national level and for olive oil, in particular, means that conformity checks currently performed in *Portugal* do not go beyond the minimum number set out each year at EU level. *France* and *Greece* also reported to face shrinking financial resources and cuts in the staff at the level of their competent authorities, and highlighted the need to do more with less and less financial means, although the direct impact on the olive oil sector seems somehow limited. In *Italy,* additional funds (and human resources) would help in further increasing the effectiveness of the action deployed by national competent authorities, although the current budget availability for the organisation of conformity checks nationwide is considered as satisfactory.

The second issue relates to the **costs associated with the performance of both physico-chemical analyses and organoleptic assessment**, which in certain Member States (e.g. *Denmark*, *Poland*) are considered as excessively high.

Furthermore, it emerged from the case study on *Denmark* that the financial consequences stemming from enforcement actions undertaken by national competent authorities towards the concerned business operator (notably market withdrawal) are a source of financial concern and are considered disproportionate.

4.2.5 Other problems/gaps

Amongst gaps and problems that cannot be grouped under the previous sections, the following issues were raised by non-producing Member States in the survey of national competent authorities and/or in case studies:

- **Lack of information on the olive oil market in producing Member States** as this might help risk analysis and planning of conformity checks in other Member States where products are marketed (*Netherlands*).
- **Difficulties in establishing smooth cooperation with approved laboratories and tasting panels located in other Member States** with a view to carrying out physico-chemical analyses and organoleptic assessment in the context of conformity checks (*Denmark*).

As for other problems/gaps emerged in both producing and non-producing Member States, the problem of the **deterioration of the product if exposed to extreme temperatures and to white light**[40], and the fact that **indication of the year of harvest of the olives**[41] **is currently not a mandatory labelling requirement** as per EU legislation were also indicated by some consulted stakeholders as a weak point of the system of controls.

4.2.6 Challenges of cooperation practices with the EU (notification system)

As for the challenges of the cooperation practices with the EU, in general the notification process through Annex XXI has been positively judged by national competent authorities. However, a number of problems or gaps were also identified:

- Shortcomings in the Excel file used by national competent authorities for reporting the results of conformity checks to the European Commission.
- Problems related to the timing for compiling the Excel file.
- Challenges related to the process of collecting relevant information for compiling the Excel file from decentralised competent authorities.
- Co-existence of various systems that may be used for sharing information on non-conformities regarding olive oil.

The challenges highlighted above are discussed in detail in the following sections.

At a practical/operational level, several Member States highlighted the **need to improve the Excel spreadsheet for reporting the results to the European Commission**. In *Italy*, the use of an Excel file for compiling Annex XXI is not considered the most appropriate IT solution for working on such a large amount of data. In addition, the rigidity of the file (which is blocked in several cells) makes its completion extremely difficult. Also the *Belgian* competent authority noted that the file is blocked with automatic fields, and that these do not include all the possible options and do not always allow the competent authority to provide the most appropriate information. Overall, the spreadsheet was judged to be not so user-friendly. Finally, also the *Polish* competent authority indicated the operational tool to share information (i.e. the Excel spreadsheet) as a potential area for improvement.

The competent authority for *France* highlighted **problems on the timing of the compilation of the file**. In fact, the French competent authority first has to request the analytical results from the laboratory, and then it also has to request information on actions and sanctions for non-compliant results from the relevant enforcing authority. The coordination among these three entities takes time, and does not allow reporting to the European Commission before the end of June. Moreover, the reporting of sanctions is incomplete as the procedures to set sanctions have not yet been completed when the file needs to be delivered to the European

[40] According to an Italian stakeholder representing the interests of business operators, few provisions apply to marketing of olive oil at retail level, and often inadequate attention is paid by retailers to ensure appropriate preservation of the bottles of olive oils on the shelves of the shop and in storage areas.

[41] For some consulted Belgian stakeholders the indication of the year of harvest on the package of the final product would facilitate the performance of controls and, more in general, the marketing of products of good quality.

Commission. A two-stage procedure could be a solution to this challenge. For example, this procedure could foresee initially the delivery of results of conformity checks and then, in a second stage, the indication of the sanctions for the non-conformities detected. Also in *Germany* a similar issue related to the timing of the compilation of the file has emerged.

In *Spain* the process to collect data from all the Autonomous Communities is considered long and expensive. The central authority often receives poor information, and only after that several reminders and requests for data have been sent to Autonomous Communities.

The main challenge identified by the competent authorities for *Portugal* is linked with the **co-existence of the various systems that may be used for sharing information on non-conformities regarding olive oil**. These are: Member States' annual reporting, the Administrative Assistance and Cooperation (AAC) system, the Food Fraud Network (FFN), the Rapid Alert System for Food and Feed (RASFF) and the Secure Information Exchange Network Application (SIENA). In the Portuguese national competent authority's opinion, not all EU Member States are using those systems correctly and in a way that is consistent with their objectives and scope (e.g. safety, non-compliance, suspected frauds etc.). From this perspective, practical training showing how non-compliances must be communicated, and through which EU-level system, could help in reaching a higher degree of harmonisation in this area.

4.2.7 Challenges of the verification requests process

The use of the Administrative Assistance and Cooperation (AAC) system to send and receive verification requests is relatively recent: this implies that its benefits and medium-term impacts are still difficult to appreciate for several national competent authorities. When the system was launched for the purpose of verification requests, the European Commission received a generally positive feedback from national competent authorities, since the authorities in charge of managing the verification requests are often the same as the one in charge of general controls on food, and are hence already familiar with the AAC system.

The main challenges that the AAC system should address were identified in the following:

- Some Member States do not ensure a timely and accurate follow up to the verification requests they receive.
- In certain instances, it may be difficult to understand which are the "Member State(s) of origin" that must be involved in AAC cases.
- The requests for verification included in the AAC are often not accurate in their form and in their contents, and are usually drafted in the national language of the requesting Member States: follow-up to those requests may be difficult due to language barriers.

The above challenges are discussed in more detail in the following sections, together with other minor challenges emerged from the assessment.

In general, the verification requests process managed through the AAC system is positively considered by national competent authorities. In the views of national competent authorities, the recent decision to use this digital system for the communication among Member States facilitated the process and improved its efficiency. However, the *Belgian* competent authority deems that, based on the very short experience made to date with the AAC system, the previous approach based on bilateral communication between individual Member States is more effective and prompter than the AAC notification system.

The consulted national competent authorities and EU level institutions also highlighted a number of challenges that the AAC system should address:

- According to a number of competent authorities, **some Member States do not ensure a timely and accurate follow up to the verification requests they receive**. In a number of cases, national competent authorities do not reply to received verification requests. According to DG SANTE, whenever this happens the sending national competent authority can directly contact the contact point of the receiving Member State. The list of contact points in each Member State is always available. In case this action does not have the expected effect (i.e. the receiving Member State does not follow up), the sending Member State can involve DG SANTE that facilitates and coordinates the

activities between national competent authorities. These are often not aware of the possibility to have the support of DG SANTE in case of lack of a follow up from requested Member States. For instance, the competent authority of *France* reported that the absence of direct contact with counterparts of other Member States reduces the overall transparency of the verification requests system. In particular, more opportunities to interact directly with counterparts from other Member States would enable public officials to discuss about the reasons behind the high rate of imported oil that is downgraded from extra virgin to virgin.

- According to DG AGRI, a key challenge for the users of the AAC system might be to **understand in certain instances which are the "Member State(s) of origin" that must be involved in AAC cases**. This challenge is caused by two different factors: 1) the practice of blending, which is very common in this sector and 2) the fact that the Member State where the oil is bottled can be different from the Member State(s) where the oil was produced. This difficulty was not reported by national competent authorities in relation to the AAC system: however, the operative experience with the system can be too limited to identify this issue.
- *Spain* is the Member State that is most critical towards the structure and working mechanisms of the AAC system to send/receive verification requests. Some challenges identified by the Spanish competent authority are linked with the organisation of controls in this country, where extensive competences on this matter lie with the Autonomous Communities. After receiving a verification request from another Member State, the central authority forwards it to the relevant Autonomous Community. A key identified issue is that Autonomous Communities do not have direct access to the AAC and the central competent authority needs to act as an intermediary initially to assign the case to the appropriate Autonomous Community, but also to compile the follow up in the AAC system. However, Autonomous Communities often do not inform the central competent authority of the outcome of the process.
- According to some competent authorities (e.g. *Denmark*, *Spain*), **the requests for verification included in the AAC are often not accurate in their form and in their contents**. In addition, **all or most of the documents that are related to each case are usually drafted in the relevant language of each Member State**. This creates some difficulties during the examination of the case by the other Member State, due to language barriers. In the specific case of *Spain*, where most competences are in charge of Autonomous Communities, the staff in charge of controls at local level often does not speak other languages than its mother tongue, and is unable to understand the documentation received even in English.
- The competent authority for *Spain* also reported that the system of receiving samples from other competent authorities should be improved since it happened that the samples that should be sent to *Spain* to perform the counter-assessment never arrived to destination.
- According to the national competent authorities of some producing and non-producing Member States, most of the times it is no longer possible to find samples of the same batch that originated the verification request.
- The competent authority of *Denmark* observed that the timing for reporting irregularities (when the irregularity is detected? when the results of counter-assessment become available?) through the AAC system is not clarified by the legislation in force and that more detailed procedures are needed.

4.3 Structural requirements that need to be covered

Based on the analysis carried out at § 4.1 and 4.2 it appears that the current EU conformity checks system can be further improved with a view to achieving the objectives for which it has been established.

Some areas where future policymaking work may be required can be identified in the following:

- **Capacity building in the area of conformity checks at national level** through the implementation of actions that may benefit all Member States (e.g. provision of EU guidance to ensure greater

legal certainty, increased harmonisation of control procedures, exchange of best practices and market knowledge, increased level of cross-border cooperation) or some of them (e.g. non-producing Member States in relation to laboratory capacity and equipment and detection of frauds, amongst others).

- **Review and fine-tuning of organoleptic assessment** with a view to ensuring greater scientific reliability of results and acceptance by business stakeholders.
- **Communication activities around conformity checks**, namely by giving appropriate considerations as to whether and to what extent results of national checks can be shared and with whom (e.g. competent authorities from other Member States, business sectors, the general public etc.).

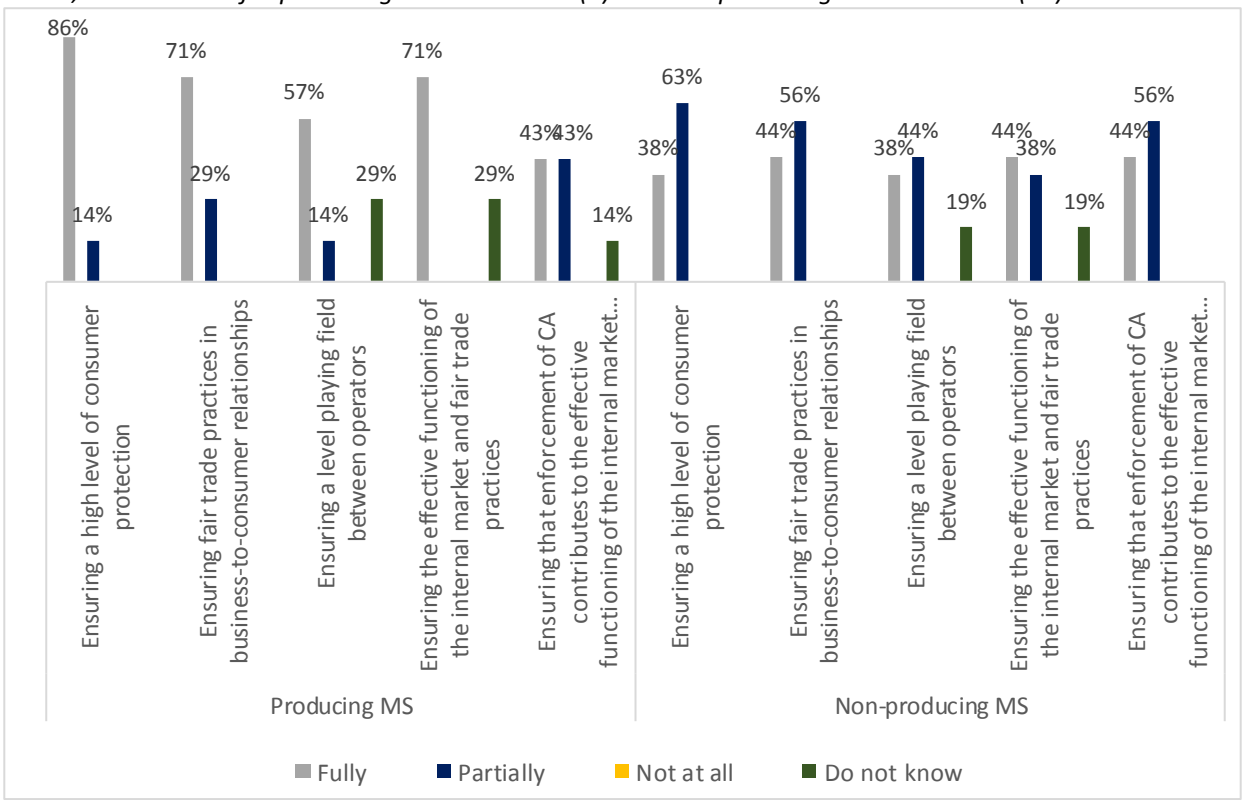
4.4 Differences between producing and non-producing Member States

This section aims at highlighting the main differences between producing and non-producing Member States emerged from the assessment, based on the results of the survey of national competent authorities and the findings of the case studies. It examines differences that emerged between these two groups of countries in relation to the achievement of the general objectives pursued by the EU system of conformity checks, and to problems and gaps in national implementation of that system.

Achievement of the objectives pursued by the EU system of conformity checks

Figure 4.3 shows the replies given by the surveyed national competent authorities as regards the achievement of the overall objectives pursued by the conformity checks system, with the relevant breakdown for producing and non-producing Member States.

Figure 4.3 – Achievement of objectives pursued by the EU framework of conformity checks in the olive oil sector, broken down for producing Member States (7) and non-producing Member States (16)



Source: Areté survey of national competent authorities

In general, the feedback provided by the surveyed national competent authorities of producing Member States is more positive than the feedback from the national competent authorities of non-producing Member

States for the majority of the objectives considered (4 out of 5, the exception being the contribution of national enforcement towards the effective functioning of the internal market).

Overall, the most significant difference relates to the objective of a high level of consumer protection: whereas the majority of the national competent authorities of producing Member States consider that the EU conformity checks system has fully achieved the objective in question, the majority of the national competent authorities of non-producing Member States express a less favourable judgment. Although of a lesser significance, similar positions emerge also in relation to the achievement of the objectives of fairness in business-to-consumer marketing practices and of a good functioning of the internal market: also in those cases, the judgment of the national competent authorities of producing Member States is more favourable than the judgment of the national competent authorities of non-producing Member States.

Moreover, replies provided in relation to the contribution of national enforcement towards the good functioning of internal market indicate that for both non-producing and producing Member States this objective has been only partially achieved to date. This suggests that there may be room for improvement on the implementation of conformity checks and on cross-border cooperation.

It is anyway worth noting that no Member State indicated that one of the objectives under consideration has not been achieved at all by the EU conformity checks system.

Implementation problems and gaps

The previous section anticipates some of the differences between non-producing and producing Member States concerning problems and gaps in the implementation of conformity checks at national level. Essentially, these differences relate mostly to the adequacy of staff in terms of number and training; laboratory capacity and equipment; and communication of results of conformity checks.

Based on the results of the survey of national competent authorities, staff availability is an issue for various producing Member States primarily for ensuring the appropriate follow-up to cross-border infringements and the actual planning and execution of conformity checks (in both cases 43% of the respondents indicated so) and in the area of risk analysis (14%). Conversely, this issue is felt to a lesser extent in non-producing Member States, even if the handling of cross-border infringements, in particular, is problematic for 25% of the respondents in such countries. Fraud prevention and repression is also an area where some non-producing Member States (19% of survey respondents) consider that the available financial and human resources are not sufficient.

Overall, non-producing Member States appear to face more problems concerning laboratory capacity (highlighted by 31% of survey respondents), including their funding (38% of respondents as opposed to 14% in producing Member States) and availability of experts for tasting panels (38% of respondents as opposed to 14% in producing Member States). The training of staff, and notably the technical knowledge of marketing standards for olive oil, is also amongst the implementation gaps most frequently indicated by respondents from non-producing Member States (31% as opposed to 0% in the case of producing Member States).

As far as communication on conformity checks is concerned, this represents a heavier implementation problem/gap for non-producing Member States (38% of respondents) than for producing Member States (29%).

5 THEME III - MAPPING AND ANALYSIS OF THE RELATIONSHIPS BETWEEN NEEDS AND INSTRUMENTS

5.1 Identification of best practices

This section aims at identifying possible examples of best practices, i.e. existing instruments that have shown outstanding capacity to effectively and efficiently address the related needs of the conformity checks system. This section is mainly based on the analysis of evidence collected through the national case studies. It should be also noted that some of the following best practices have directly been identified as such by the consulted stakeholders, while others have been identified as best practices by the study team, through the analysis of the evidence collected in the framework of the study.

5.1.1 Best practices in the implementation of the conformity checks system

The following best practices in the implementation of the conformity checks system have been identified:

- **To perform controls in the framework of conformity checks on olive oils in combination with controls for checking compliance with other provisions**: this practice was found to be widespread across the EU, and can improve the overall efficiency of controls. The types of controls performed when inspections or tests are carried out on a certain operator/sample vary depending on the national organisation of the inspection bodies. For instance, in *Denmark*, when the competent authority is performing inspections in retail stores to check for compliance with general food labelling requirements, it is a general practice also to perform at the same time conformity checks for the labelling of olive oils.
- **Appropriate allocation of tasks among the different entities and/or geographical levels/areas involved:** the majority of Member States adapt the organisation of controlling activities related to conformity checks on olive oils to national peculiarities in both respects. For instance, Member States with small dimensions (from a geographical standpoint but also in terms of low consumption of olive oil and, as a consequence, low number of performed checks) generally manage the performance of controls at central level. By contrast, Member States with a high number of checks to be performed on a vast geographical area and/or with responsibilities in the implementation of conformity checks allocated at regional/federal level (e.g. *Germany* and *Spain*), organize the system of controls on olive oils accordingly: some functions (mainly coordination and reporting to the European Commission) are performed centrally, while the carrying out of conformity checks is mainly performed by decentralised territorial entities (Länder in *Germany*, Autonomous Communities in *Spain*). In addition, as reported in the case of *France*, the geographical allocation of controls can also enable a particular adaptability of controls at the regional level, e.g. with the organisation of workshops for training the local inspectors on local specificities.
- **Appropriate allocation of responsibilities among the different national competent authorities/offices involved**: In some Member States, the allocation of responsibilities and the coordination of activities among the different involved institutions works better than in other Member States. Some key success factors in that respect have been identified in the following:
    - A clear allocation of the number of checks to be performed by each local entity, which ensures a **good balance between the resources available at local level and the number of checks to be performed**.
    - **Appropriate communication** among the different entities involved. In *Italy*, for instance, the central body of the competent authority remains informed on the activities carried out by the offices located at regional level thanks to the use of shared databases.
- **Training of staff:** the organisation of training sessions for the staff of the competent authorities is considered a central aspect for achieving effectiveness in performing conformity checks in *Italy* and *France*. In these two Member States, training sessions and technical workshops are often organised in

order to enable public officials to regularly train and be updated on new techniques and legislation. In *Italy*, local inspectors are also trained to perform preliminary organoleptic assessment directly on the place of inspection (e.g. bottlers, retailers, etc.). Such preliminary assessment allows to focus the sampling process on batches that are considered to be more problematic. Training on new techniques to contrast agro-food frauds (including on-line frauds) is considered of paramount importance because of the rapid evolution of fraudulent practices, which are often technically advanced and which are also geographically widespread. It should be noted that both *Italy* and *France* strongly rely on the knowledge of local officers and inspectors to finalise risk analysis and identify the individual operators to be checked in the framework of the controlling plan defined at national and local level.

- **Continuous training of participants to tasting panels:** in order to correctly perform the panel tests and address the issue of inconsistent classification of the same product in different panels (which is of particular relevance in counter-assessments), some Member States (e.g. *France*, *Italy* and *Spain*) organise training and coordinate laboratory tests to enable tasting panels to regularly practise. For these Member States, the training of both participants and presidents of tasting panels is considered an essential activity to ensure that the organoleptic assessment is correctly performed, and to improve the reliability of its results.
- **Presence of an adequate number of laboratories:** the presence of an adequate number of laboratories for performing organoleptic assessment and physico-chemical analyses, capable of coping with the workload of the annual plan of controls, is needed to ensure that the defined annual number of controls is actually performed. It should be noted that the number of laboratories, as well as their capacity to perform the required analyses, largely depends also on the availability of financial and human resources at national/regional level. It is also worth noting that in *Italy* there is a considerable number of tasting panels that are not officially approved to carry out category checks, which nevertheless perform quality control functions before marketing of products, such as DOP certification, response to business needs, oil type classification, labelling, etc.; those laboratories can help to address the issue of lack of capacity.
- **Use of quantitative tools to perform the risk analysis**: as reported at § 3.3.3, risk analysis is in some cases performed with a specific quantitative tool that allows to weigh the applicable criteria. This approach is currently implemented in *Portugal*, where the competent authority calculates a "Product Risk Indicator" through a specific formula; in *Italy*, where a specific software has been developed to calculate risk indexes for each business operator; and in *Spain*, where since 2016 competent authorities have started a process to improve the risk assessment, and many Autonomous Communities have developed database systems with a comprehensive registry of all operators and historical data, in order to have access to a solid evidence base for planning checks for each campaign.

5.1.2 Best practices in the organisation and functioning of the olive oil sector

This section illustrates a number of best practices, which are related to the broader context of the olive oil sector but which, at the same time, contribute positively to the effectiveness and efficiency of the system of conformity checks on olive oils:

- **Good intra-sectoral cooperation:** three models of cooperation can have a positive impact on the performance of the system of conformity checks on olive oils:

  1) Cooperation among different business stakeholders in the olive oil supply chain (e.g. associations representing producers, retailers, individual operators at the different levels of the supply chain.).

  2) The cooperation and coordination among different stakeholders of the supply chain and the national/regional competent authority(ies).

  3) The coordination among the different regional/national competent authorities involved in the system of conformity checks.

The best practice under point 3), which is specific to the system of conformity checks, has already been presented at § 5.1.1 above. As for the various coordination activities among different stakeholders and among different stakeholders and the competent authorities that are in place at national level, trust of sector associations in the work performed by competent authorities is considered as an essential prerequisite to build good cooperation practices. This is the case of *Portugal*, where business operators and trade organisations referred that the work of the competent authority (ASAE) has considerably improved over time. Indeed, today ASAE is considered as an entity that abides by the highest standards of transparency and respects the operators' rights in the context of official controls. This view is shared also by the national consumer organisation. In *Portugal*, the olive oil sector is generally considered as well-structured and with a relatively high level of integration, in particular between the farming and the processing stages. Also in *France,* a strong cooperation between the competent authority and sectoral stakeholders is considered as a best practice with positive impacts on the functioning of the conformity checks system. In *Spain*, all the operators of the supply chain are well coordinated and organised, and have long-standing relationships with the competent authorities (at regional, national and EU level).

- **Training of/guidelines for producers:** some competent authorities (e.g. *France*) organise at local level workshops and meetings with sector associations (including those representing retailers) or individual operators to inform them on the provisions regarding labelling of olive oils and other aspects of the marketing of the product. Other Member States (e.g. *Italy*) developed written guidelines, which producers can consider as reference documents for the correct application of all legal provisions concerning the marketing of olive oils. The access to such training sessions and/or the availability of guidelines are considered as best practices that can contribute to reducing the number of errors in the marketing of olive oils leading to non-conformities in controls. In *Portugal*, events for the promotion and consolidation of the olive oil sector are organised by the national inter-branch organisation for olive oil (AIFO).
- **Development of national legislation that regulates specific aspects of the food sector or of the conformity checks system:** unsurprisingly, the Member States with the largest domestic production and consumption of olive oil, namely *Italy* and *Spain*, apply some additional legal provisions, which regulate specific aspects of the olive oil sector. In particular, the Spanish competent authority considers as a best practice the Law on Food Quality (28/2015), adopted in 2016. This national law mainly focuses on technical and sanitary aspects, but also covers economic aspects of production processes: it aims at preventing fraud and at improving the quality of marketed products. Moreover, this law regulates commercial relationships among operators within the food supply chain, and promotes balanced and transparent commercial relationships. This law has contributed to reinforce good communication and relationships among all operators of the food chain and among the related associations, including in the olive oil supply chain. In *Italy*, the competent authority considers the system of penalties as regulated through Ministerial Decree 23 May 2016, n. 103 as an example of best practice. It should be noted that the development of national legislation is not a best practice in itself. Its consideration as a best practice stems from the involved stakeholders' appreciation for its provisions, and from the fact that the development of national legislation is proportional to the importance of the olive oil sector in these two Member States. By contrast, the introduction of specific national legislation in Member States with no domestic production of olive oil and/or with a small market for the product, might be disproportionate with respect to the stakeholders' needs, and might represent an excessive burden.
- **Development of national traceability systems and of other databases**: the development of traceability systems and of other types of databases containing information on the olive oil sector can contribute to the creation of positive synergies between these systems and the system of conformity checks for olive oils, thus improving the efficacy of the overall system of controls. The purpose of these databases as well as the typologies of stakeholders that developed them are various. Some

examples of traceability systems and databases that are considered as best practices by the actors that developed and/or use them, are described below:

- In *Portugal*, the national inter-branch organisation - inspired by similar experiences implemented in other producing Member States (notably *Italy* and *Spain*) - is developing an information system that should allow the recording of movements of olive oil by individual mills and bottling plants at national level. Each operator will be able to upload data concerning transactions of olive oil on a monthly basis through an application connected to a single platform. The project is for the time being a purely private initiative, although some involvement by competent authorities cannot be excluded in the future, especially if its added value is understood and appreciated.
- In *Spain,* business associations are also working with the central competent authority to explore the possibility of implementing a digital traceability system, with a view to providing an online registry tracing all product movements.
- In *France*, the PDO *Vallée des Baux de Provence* has opened the access to its database (containing data on production volumes, checks carried out by the association, number of non-conformities, etc.) to the competent authority.
- Again in *France*, the laboratory CTO created with the association representing producers and the University of Marseille a database of information on olive oil origins. The analysis of fatty acids based on this database enables CTO to detect potential frauds about the products' origins.
- In *Spain*, Spanish agro-food cooperatives, the National Association of Industrial Packers and Refiners of Edible Oils (ANIERAC) and the Spanish Association of Industry and Foreign Trade of Olive Oil and Pomace Oil (ASOLIVA) designed in 2017, with the support of competent authorities, a System for Reinforced Voluntary Self-Control for certain extra virgin olive oils. The objective of this self-regulation initiative is to improve quality in order to guarantee consumers and provide legal certainty for bottling companies.
- Finally, *Italy* has a one-of-a-kind system of traceability specific for olive oil, which is considered as a key tool also for performing conformity checks. The computerised register of olive oil (*Registro Telematico Olio* – RTO) is a system for accurate traceability of the olive oil supply chain at national level. RTO enables the official control bodies to monitor online individual movements of olives, olive oils and olive-pomace oils for each plant/warehouse. The use of RTO is mandatory from 1st July 2015 for olive dealers, crushing mills, packaging companies, bulk oil traders, refineries and olive-pomace traders, which are obliged to keep the RTO for each plant/warehouse.

5.2 Suggestions for improving the system of conformity checks

The study revealed that, in general, stakeholders of the olive oil sector value the organisation of conformity checks and recognise that their implementation at national level has improved over time.

That notwithstanding, there are certain areas where the system in hand would benefit from some concrete improvements. Such improvements are described in detail in the paragraphs that follow, indicating - wherever possible - the method (i.e. survey of national competent authorities, case studies, Focus Group) used to collect the evidence that prompted them, and the source of that evidence.

Training of staff

The survey of national competent authorities and the case studies conducted at national level pointed out to a lack of technical knowledge by the national staff in charge of the organisation and performance of conformity checks. This issue appears to be relevant for both producing and non-producing Member States, although to a different degree, due to the fact that producing Member States have first-hand and in-depth knowledge of the olive oil sector.

In the case of non-producing Member States, the lack of knowledge concerns, on the one hand, the olive oil sector in terms of cultivation and production techniques, as well as marketing practices. On the other hand, it

relates to marketing standards applying to olive oil as well as to the performance of conformity checks aimed at the verification of their compliance. In the case of the largest producing Member States, owing to the higher number of checks that these countries are expected to carry out in line with EU legislation, the staff of national competent authorities is in constant need of receiving adequate and up-to-date technical training on marketing standards and conformity checks. The fact that olive oil as a high-quality product is particularly prone to fraudulent practices today makes so that the staff of competent authorities needs to acquire and/or improve its knowledge of investigation, intelligence gathering and sharing techniques.

Against this background, several national competent authorities (e.g. those of *Czechia, Denmark, Finland, France, Greece, Ireland, Latvia, Portugal, Slovenia, Spain*) expressed interest in the organisation of EU trainings on olive oil legislation and conformity checks destined to their own staff. Such trainings could be organised in the context of the Better Training for Safer Food (BTSF) initiative, which already covers areas of EU legislation relevant to food quality (e.g. organic products, geographical indications). The idea behind these trainings is not only to disseminate the latest technical knowledge and official guidance at EU level in line with the "*train-the-trainer"* principle, but also to foster the sharing of good practices between Member States as well as international cooperation. In terms of scope, such trainings could ideally cover a wide range of topics relevant to conformity checks in the olive oil sector, including marketing standards, risk analysis for the organisation of conformity checks, performance of labelling and category checks, sampling, cooperation procedures to deal with cross-border cases and fraudulent practices.

As such, Better Training for Safer Food trainings should not replace the annual workshops on olive oil organised by the Directorate-General for Agriculture and Rural Development of the European Commission, as the latter indeed serve altogether a different purpose, being a high-level institutional forum where policy and implementation issues concerning EU legislation on olive oil related to conformity checks are discussed by EU and national experts.

Organoleptic assessment

In the context of the EU conformity checks system, the organisation and performance of organoleptic assessment on extra virgin and virgin olive oils represent probably the most prominent technical issue. For some industry stakeholders, in particular, the main problem of the organoleptic assessment lies in the high degree of subjectivity that the method would involve, often leading to inconsistent results across tasting panels or even within the same tasting panel. The fact that organoleptic assessment is performed by persons rather than equipment was pointed out by several of the consulted stakeholders as the main reason behind the alleged lack of consistent analytical results.

Against this background, some industry stakeholders in producing Member States (e.g. *Portugal*, *Spain*) generally consider that organoleptic assessment should be simply excluded by the set of analytical tests to be performed on olive oils as currently set by EU legislation. Other industry stakeholders, instead, fully recognise the importance that organoleptic assessment plays in guaranteeing the quality of olive oil on the market and for the benefit of EU consumers. For these stakeholders, organoleptic assessment should continue to be part of the EU conformity checks system, although some improvements could be introduced to ensure higher predictability and reliability of its results and, in so doing, greater legal certainty for the business operators of the olive oil sector.

As far as national competent authorities are concerned, views on organoleptic assessment seem to be largely consensual: as long as the assessment is correctly performed, it is in fact currently the only effective method to assess the relevant olive oil categories. This being said, several national competent authorities concede too that the organisation and the performance of organoleptic assessment can be improved in certain aspects.

Considering the improvements that could be concretely made to organoleptic assessment, the introduction of uncertainty parameters – which exist for other analytical tests to be performed on food – would be a step forward particularly valued by most industry stakeholders and national competent authorities alike. Such parameters would be useful for national enforcement authorities when, in the context of conformity checks, these are called to decide whether the olive oil actually corresponds to the declared category, representing, at the same time, an additional legal guarantee for business operators being controlled. For these reasons, most stakeholders and competent authorities acknowledge and appreciate that advancements are being made in this area, especially thanks to a number of international research projects (e.g. OLEUM).

Based on the feedback provided, in particular, by the surveyed national competent authorities and through the discussions held in the Focus Group, besides the setting of uncertainty parameters, it can be inferred that fostering cooperation at EU level would be highly beneficial for ensuring increased reliability and uniformity of the tests under consideration. From this point of view, the two most prominent suggestions put forward by the consulted stakeholders concern:

- The establishment of reference samples for the different olive oils (including those protected under EU quality schemes) against which national tasting panels can be trained and, following that, organoleptic assessment routinely performed at Member State level.
- The organisation of regular ring tests involving tasting panels from different Member States under the responsibility and the coordination of the European Commission.

Likewise, various Member States with no tasting panels or limited capacity in this regard (e.g. *Poland*, *Slovakia*, *Slovenia*) would welcome more cooperation and coordination at EU level to facilitate the performance of counter-assessments in the Member State from where the olive oil originates. Requests in this respect range from making public the list of tasting panels in other Member States for the benefit of business operators and national competent authorities, to providing information on costs and turnaround times. The possibility of stepping up EU cooperation in this area should be therefore explored and discussed amongst the European Commission and Member States, with a view to minimising the undue delays in the counter-assessment procedure that have been reported to occur in several instances.

Other aspects of conformity checks

The consulted national competent authority for *Poland* put forward an interesting suggestion for improving the system of conformity checks which is related to organoleptic assessment. The competent authority suggested to give priority to organoleptic assessment rather than to physico-chemical analysis. The competent authority observed that most of the defects are detected through organoleptic assessment, while on the other hand physico-chemical analysis often does not detect any non-compliance. Physico-chemical analyses are currently required by EU legislation and should be performed before carrying out the organoleptic assessment.

The consulted national competent authority for *France* suggested to reduce the frequency of conformity checks on olive oils by organising specific control campaigns every two or three years.

Finally, for what concerns the implications of conformity checks for consumer protection, some consulted stakeholders in *Spain* suggested to dedicate promotional campaigns also to other category of olive oils than extra virgin olive oils, explaining to consumers the differences among the categories of olive oil on the market, and the optimal use for each of them.

Labelling information

Suggestions for the improvement of the EU conformity checks system have been made (mostly in the framework of case studies and of the Focus Group) also with regard to labelling of olive oil, which is currently governed by Regulation (EU) No 29/2012.

Some Member States consider that making mandatory the provision of certain particulars on the labels of bottles/containers of olive oil could be helpful for national enforcement authorities, notably in the organisation and performance of conformity checks. These particulars are:

- The date of harvesting, which, in accordance with EU legislation, can currently be provided by business operators on a voluntary basis and which Member States may decide to make mandatory for the national production that is intended for domestic consumption. Allegedly, the systematic presence of the date of harvesting on extra virgin and virgin olive oil bottles would be an element that competent authorities may take into account when planning their controls (e.g. risk analysis) as well as when taking the relevant enforcement decisions (e.g. giving appropriate consideration to the age of the oil in question when assessing the organoleptic characteristics). The application of such a requirement would pose some technical challenges in terms of implementation, notably in the case of blends of oils from different harvesting years.
- The date of bottling, which may be useful information, overall, for the same reasons mentioned above in relation to the date of harvesting.

- The place of bottling, which would constitute additional information, complementary to origin information, that may be useful to competent authorities for determining where a non-compliance might have occurred and for identifying the national authorities they should contact. The indication of the place of bottling would also have the merit of increasing the transparency on the production chain of the product in the eyes of consumers.

If there is, to some extent, consensus on the usefulness of the labelling information just referred to for the purpose of organising and carrying out conformity checks, nevertheless doubts have been raised by some national competent authorities and stakeholders on the following aspects:

- The technical feasibility (e.g. provision of date of harvesting for olive oil blends) and the costs associated with their implementation.
- The risk of consumers being misled by certain particulars (e.g. to the extent that consumers may associate the most recent date of harvesting with a higher product quality or, in the absence of the date of harvesting, rely on the date of bottling to determine the age of the product).

In light of the above, it can be concluded that, at present, there are no clear and consistent indications as to whether further information should be provided, on a mandatory basis, on olive oil labels. That notwithstanding, this remains a topic that could further be explored by the European Commission and Member States in the relevant settings (e.g. working groups, annual workshops) where EU olive oil legislation is discussed. Literature review and further consumer research may also help in understanding whether any specific additional labelling information might be indeed necessary to fulfil consumers' expectations and needs.

Penalties

As underlined at § 3.3.9, the survey of national competent authorities and some of the national case studies revealed that several Member States (and especially non-producing ones such as *Denmark, Finland, Sweden,* and *Poland*) do not have currently in place specific penalties to apply to business operators for one or more violations of marketing standards applicable to olive oil.

Generally, the mere existence of penalties works as a minimum deterrent vis-à-vis illegal and fraudulent practices. Conversely, their absence ultimately undermines the objectives of obligations that are set by law and, in the case of consumer goods such as olive oil, leaves consumers exposed to potentially misleading commercial practices, and legitimate business operators exposed to unfair competition by rogue traders.

In light of the considerations made above, it should be therefore further investigated what are the reasons behind the lack of penalties in the concerned Member States and to what extent this impacts on the effectiveness of national conformity checks in the olive oil sector. In doing so, it should be taken into account the need to have penalties that are adequate for sanctioning non-conformities as well as fraudulent practices in the olive oil sector, owing to the relatively high price that this product has on the market.

While a level playing field across Member States in this area is perceived as necessary by most stakeholders, conversely, EU harmonisation of penalties in the olive oil sector is desirable only for some of them. Indeed, most stakeholders consider that harmonisation would be hard to achieve, owing to the different national legal traditions, on the one hand, and difficult to justify for olive oil as opposed to other food categories.

5.3 Suggestions to ensure traceability and detect frauds in the olive oil sector

Case studies and the Focus Group, in particular, allowed discussing with national competent authorities and stakeholders the need to have an *ad hoc* set of traceability rules for olive oil.

Currently, traceability rules for olive oil are those of general nature – i.e. applicable to all foods - laid down in Regulation (EC) No 178/2002 (General Food Law). This means that business operators of the olive oil chain must keep records of their suppliers and customers ("*one step back - one step further"* principle). Product specifications of olive oils recognised as geographical indications under EU legislation on quality schemes (PDO/PGI) may set out more detailed traceability rules. At national level, to date only one Member State

(*Italy*) has developed and implemented a dedicated traceability system for olive oil, while other initiatives are ongoing or about to start in a few other Member States (i.e. *Spain* and *Portugal*).

Against this background, the issue is whether more specific traceability rules should be developed for olive oil: for instance, ensuring traceability at the level of the bottled product. In this respect, the study revealed that there is still little knowledge amongst Member States about how traceability could be applied to the olive oil sector in terms of technical feasibility, of the stage of the production process (e.g. from the crushing mill or after that) that should be the starting point, as well as with regard to its economic implications (namely implementation costs for business operators).

Overall, from the perspective of national competent authorities, a comprehensive traceability system is a potentially very useful tool to rely on for planning and performing conformity checks as well as for detecting fraudulent practices in the olive oil sector. This being said, further discussion and exchange of knowledge between Member States on this topic appears necessary and should be encouraged, taking into account that the establishment of EU rules should be in any event the preferred policy scenario given the importance that olive oil has in terms of production at EU level and of intra-EU trade.

As for the detection of frauds in the olive oil sector, the study did not identify any concrete suggestions to improve the current EU approach in this area. This notwithstanding, it has clearly emerged that producing Member States have more experience than non-producing Member States in this area. Therefore, the sharing of knowledge and national practices by means of trainings or workshops (as referred to at § 5.2) would be highly beneficial for the staff of the competent authorities in charge of conformity checks in non-producing Member States.

5.4 Suitable approaches for notifying the results of conformity checks to the European Commission

The following paragraphs illustrate the main suggestions emerged with regard to the following aspects of the EU conformity checks system:

- Annual notification of the results of the conformity checks by national competent authorities to the European Commission, including their communication and publication.
- Cooperation between the European Commission and national competent authorities in the Administrative Assistance and Cooperation (AAC) system (or at Food Fraud Network level in case of suspected fraudulent practices) whenever non-compliances regarding olive oil originating from one Member State are detected on the market of other Member States.

Annual notification of results of conformity checks and their communication

The study revealed that national competent authorities consider the current annual reporting of results of conformity checks to the European Commission quite burdensome and would welcome the implementation of solutions leading to its simplification.

In particular, the Excel table that Member States must use for reporting their results is a source of technical issues for several national competent authorities. Issues flagged by various national competent authorities (e.g. those of *Belgium, Greece, Italy, Spain*) include the fact that the file is not sufficiently user-friendly, does not allow for the inclusion of additional information (i.e. provides for closed fields only) and is subject to changes every year. Similarly, the fact that the file to be used is made available to Member States only a few months ahead of the deadline for notification of results (31 May) does not always give enough time to national competent authorities to get acquainted with changes and organise themselves to gather the data as requested.

Conversely, there is no consistent evidence that changing the deadline for notification - for instance, by postponing it of a few months - would ease the whole notification procedure for Member States. Likewise, the possibility of having two stages in the notification procedure – a first one for communicating results of conformity checks, and a second one for communicating enforcement actions and penalties, as the latter information often becomes available at a later stage – is backed by very few national competent authorities.

In fact, one could expect that this solution would generate an additional administrative burden for national competent authorities rather than ensuring the simplification that is sought for.

As already highlighted at § 3.5, currently the results of conformity checks performed by Member States are not shared in their entirety by the European Commission with all national competent authorities. This is because they are generally considered as highly sensitive information, and their disclosure might be economically harmful for the sector if data are not correctly explained and contextualised. The following paragraphs illustrate a possible way forward in this area based on a three-step approach that is largely the result of the information collected during the case studies and via the Focus Group.

In this respect, the collected evidence suggests that the sharing of the full dataset between the European Commission and all Member States may be a first step in the sense of improving the current communication of results of conformity checks. This exchange of information might, in fact, be useful to Member States in planning their controls, adjusting the risk analysis and identifying potential issues and trends in the olive oil sector across the EU. Sharing results of conformity checks with Member States would also contribute towards greater transparency and trigger some peer pressure that could positively reflect on the overall quality of the data submitted.

A second step that could be considered is the sharing of information with the organisations that represent the olive oil sector at national level, although one should acknowledge that this option might involve a higher risk for data to be leaked and published. This considered, this step should be carefully assessed only after that the sharing of information between the European Commission and Member States has become a consolidated practice. In this context, then, consideration should also be given to which information is worth sharing with the organisations representing the olive oil sector.

Finally, concerning the publication of the results of conformity checks to the benefit of the general public, this is in all likelihood the very last step to be considered at EU level if one takes into account the fact that national approaches vary to a great extent in this area. For this reason, it would be advisable to satisfactorily complete the first two communication activities described above before pondering whether and how to communicate control results to the media and the general public. The findings of the study show, however, that consumers may benefit from awareness-raising initiatives on olive oil (for instance, about different categories and specific characteristics), on the purposes of conformity checks and on the main types of non-conformities. Looking ahead, greater consumer awareness about olive oil may contribute to overcoming the above referred challenges associated with the communication of results of conformity checks to the wider public.

Cross-border cooperation

Overall, the collected evidence showed that a majority of Member States value positively the use of the AAC system for sharing information on cross-border cases on olive oil and of the Food Fraud Network (FFN) for fraudulent practices. As a matter of fact, its management as well as the awareness and engagement by Member States have significantly improved since it started to be used for that purpose in 2016. There are however a number of issues that the study has singled out and that should be addressed in order to further improve the effectiveness of the communication at the level of the AAC system in particular.

The first issue concerns the working language of the system. Various Member States (e.g. *Belgium, Greece, Spain*) reported having experienced language issues when involved in cross-border cases on olive oil. This is because all the relevant documentation of the case is available only in the official language of the Member State that introduced the verification request. If all or some information is made available in English, the translation is often of poor quality. This considered, as it already happens in the Rapid Alert System for Food and Feed (RASFF), Member States should be encouraged to make available at least all the essential details in proper English when exchanging information in the context of the AAC system. In this respect, it should be noted that the European Commission is planning to extend the use of IT templates for RASFF to AAC. As in such templates the headings of mandatory fields to be filled are already available in a few languages, this should contribute to addressing in part the language concerns raised by Member States.

The second issue concerns the effectiveness of the communication taking place within the AAC system. From this perspective, the system should contemplate the possibility to give access to a wider range of national authorities, as it already happens in the case of RASFF. This would be a particularly effective solution for

Member States with complex administrative structures (e.g. *Spain*) and would ensure a faster response and follow-up to verification requests by those Member States. In this respect, it is worth noting that the European Commission is currently working on that: as the AAC system is soon to be integrated under RASFF, Member States will be given the option to extend access to AAC, for instance, to regional and local authorities, should they deem it appropriate. Consideration should also be given to ensuring that Member States introducing verification requests systematically receive feedback via the system by the receiving Member States, as this was reported not to be the case in various instances.

Lastly, although awareness amongst Member States on how and when to use the AAC system has been growing, some national competent authorities (e.g. those of *Italy, Portugal* and *Spain*) are under the impression that not all Member States are making full use of the system. For this reason, some efforts at national level are needed to make sure that national authorities in charge of the olive oil sector are aware of the possibility to notify via the AAC system, and know who their AAC contact point is. Considering that events such as the annual workshops on olive oil organised by the European Commission, like in the case of certain Member States (e.g. *Poland*), contribute to clarifying the role of the AAC system in the olive oil sector, it would therefore seem appropriate that the AAC system features regularly on the agenda of such meetings in the future, so that potential issues are promptly identified and solutions discussed. Ideally and in parallel to that, the AAC system and, more in general, cross-border cooperation in the olive oil sector should also be covered by trainings intended for staff of national competent authorities, as referred to at § 5.2.

6 CONCLUSIONS

6.1 Conclusions on Theme I

The assessment performed under Theme I is mainly descriptive and is largely based on case studies carried out in producing and non-producing Member States. Despite several differences across Member States, some general conclusions can be drawn.

The importance of carrying out a precise risk analysis is recognised by the majority of Member States, which dedicate to this activity a large amount of time and/or specific quantitative tools. It is generally recognised that in order to improve the robustness of controls, the risk analysis is the core activity for targeting the controls on products that have the higher risk of non-compliances. Member States generally use a wide spectrum of criteria to perform the risk analysis, and not all criteria are applicable in non-producing Member States. The complexity of the process to perform the risk analysis and develop an annual plan of controls is directly linked with the number of controls that the competent authority performs each year: in Member States with a relatively high number of controls, the risk analysis is a complex procedure that often involves at least two geographical levels (a central one and one or more decentralised ones). Also in Member States with a separation of competences on different geographical levels, the risk analysis and the allocation of checks is made in two steps, involving the central and the local authorities.

The minimum number of checks to be performed is generally considered by the respective competent authorities as adequate. This notwithstanding, a significant number of Member States (11: *Austria, Belgium, Czechia, Denmark, Germany, Italy, Lithuania, Poland, Slovakia, Spain* and *Sweden*) perform a number of checks that is higher than the minimum number foreseen in the provision.

The majority of checks is targeted at extra virgin olive oil, and at bottled oils in general. **The allocation of the higher number of controls on extra virgin olive oil is widespread and generally considered consistent with the fact that most of the non-conformities are detected on this category of oil**. Also the different allocation of controls along the supply chain reflects the national structure of the olive oil supply chain. In the final part of the chains (retail sales), most of the controls are correctly focused on large-scale retailing, i.e. on the marketing channel where the bulk of olive oil is purchased.

The producing Member States (with the exception of *Malta*) **have at least one approved tasting panel.** Among non-producing Member States, *Germany* and *Latvia* have approved tasting panels.

As for the **results of checks**, **the marketing of virgin olive oil as extra virgin olive oil is by far the most widespread type of non-compliance identified**. The study also revealed that the results of checks and the number of detected non-conformities are generally considered consistent with the situation of the olive oil sector as well as with the mechanisms in place to tackle non-conformities. In other words, in case of appropriate performance of risk analysis, the number of detected non-conformities is higher than it should have been with the application of random controls.

The study also revealed that **the majority of Member States does not have in place a specific system of penalties for non-conformities on olive oil, and applies the same system as for other food products.** Only four Member States currently have specific penalties in place for the infringement of legal provisions applying to olive oil (*Italy*, *Portugal*, *Austria* and the *Netherlands*). Overall, **the majority of Member States' competent authorities consider the penalty system implemented in their country to be effective, dissuasive and proportionate** to address simple non-conformities but also to address non-conformities that may qualify as fraudulent practices.

The assessment of the **communication around the results of conformity checks made at national level** showed a **high degree of variability across Member States**. Among the nine Member States covered by case studies, annual public reporting of results of conformity checks is made by *Greece, Italy, Portugal, Belgium* and *Poland*. In *France*, communication is not regular but information to the wide public is guaranteed through the use of the competent authority website. In Member States with a regional/federal organisation of checks like *Spain* and *Germany*, the communication of results to the wide public depends on the decisions of the

individual Autonomous Communities / federal states (*Länder*). However, **information on the results of individual checks or on individual sanctions imposed is never published by any Member State**.

In the case of communication of results at EU level, it has been generally recognised that the current system, in which the results of checks annually notified to the European Commission are never published, should be further discussed to identify the best communication method.

In conclusion**, the overall provisions on working mechanisms of the conformity checks on olive oils have been positively judged by most of the operators and competent authorities**. Stakeholders of the olive oil sector generally value the organisation of conformity checks and recognise that their implementation at national level has improved over time.

In general, the olive oil sector is considered as sufficiently regulated at EU level; some Member States adopted national provisions and/or practices to adapt it to their national peculiarities. Given the diversity in the organisational structure of the olive oil sector in the different Member States, it seems that each Member States has been able to take into account its own peculiarities in designing the national mechanisms for performing conformity checks. Additionally, Member States consider that the provisions relating to the risk analysis do not need to be further elaborated and detailed since, as currently designed, they provide their competent authorities with the appropriate degree of flexibility to implement the necessary adjustments to the national context. In conclusion, in spite of the gaps and problems highlighted above, the olive oil sector appears to be a highly controlled one if compared to other agro-food sectors, and it is widely recognised by stakeholders that an increase in the resources dedicated to conformity checks on olive oils, in particular in producing Member States, would not be possible without reducing the resources dedicated to controls in other food sectors.

6.2 Conclusions on Theme II

The assessment under Theme II focused on two key aspects, namely: 1) the extent to which the current system meets the objectives of the provisions under study; and 2) the identification of structural gaps that need to be covered to meet such objectives.

The assessment of the **extent to which the current system meets the objective of consumer protection and fair trade practices in business-to-consumer relationships** indicated that the **current EU framework for conformity checks in the olive oil sector generally ensured the achievement of these objectives.** In addition, for producing Member States, the EU provisions on conformity checks have effectively contributed to improve the quality of the products on the market and to reduce the prevalence of fraudulent practices.

By contrast, some non-producing Member States and consumers' associations deem that the level of consumer protection guaranteed through the performance of EU conformity checks is not fully satisfactory, and should be further improved.

It emerged from the study that most consumers are often not able to perceive the differences between olive oils of different quality levels. At the same time, consumers select olive oils based on their price and on the characteristics claimed on the labels (e.g. categories of olive oils; extra virgin oil of a specific origin; etc.). Therefore, **the correct implementation of provisions on the system of controls is essential to guarantee that consumers have access to the type of oil of the quality actually declared on the label of products.**

The assessment of the **extent to which the current system meets the objective of ensuring a level playing field, effective functioning of the internal market and fair trade practices** indicated that **these objectives have been achieved only partially.** Viewpoints on this aspect are positioned on a wide spectrum, since they vary in accordance with the specific national context. In general, business stakeholders of producing Member States are more satisfied with the consequences for their sector stemming from the implementation of the conformity checks system.

In conclusion, the assessment found that **the current system of EU conformity checks has in general positively contributed to achieving the consumer-related and business-related objectives of the intervention.** The assessment also indicated that **there is room for an improvement of the system of conformity checks on olive oils, which can lead to a further successful achievement of such objectives.**

A second key aspect investigated under Theme II is the identification of problems and gaps concerning the current implementation of EU conformity checks at national level. The assessment of the **problems/gaps in the system of conformity checks** indicated that **the most prominent issues are related both to national aspects and to the system of conformity checks as it is designed by provisions implemented at EU level.** Regarding the **national aspects**, difficulties that limit the effective and efficient performance of the system of conformity checks emerged with respect to:

- The coexistence of and coordination among multiple competent authorities at national and sub-national level, in particular in Member States with complex administrative structures such as *Spain* and *Germany.*
- The lack of resources, in terms of lack of staff and/or funding to perform checks. This has been identified in particular in Member States that have a high number of checks to perform. The lack of resources should be put in the broader context of the general reduction in the availability of public funding for several reasons, also including the global financial crisis. This is a particularly problematic aspect for producing Member States, which have a higher number of controls to perform. The lack of resources is also the reason why Member States that have to perform a high minimum number of controls usually do not increase the number of checks beyond the minimum. It also emerged that Member States that do not have an approved national tasting panel face the costs and the shortcomings associated with the performance of tests in other Member States.
- The allocation of checks along the supply chain can be problematic in terms of coverage of the specific production and marketing practices of olive oil at national level. Some marketing channels (e.g. hotels, restaurants and catering services, on-line sales, road sales, local markets) are more difficult to target for controls, but at the same time they are also channels where a minor volume of olive oils is purchased. Since the bulk of olive oil is purchased via large-scale retailing, this is the most controlled marketing channel.
- It is particularly difficult to determine with certainty to which actor of the supply chain the attribution of responsibility for a non-compliance or a suspected fraudulent practice should be made.
- Sanctions for non-conformities or fraudulent practices in the olive oil sector are often similar to the ones existing for other food products. In some Member States, they are either not foreseen or adequately designed for that purpose at national level.

Some problems/gaps were also identified in the system of conformity checks as it has been designed at **EU level**. The following conclusions can be drawn from the assessment:

- There are **difficulties concerning the overall timing to perform checks** (as well as the time needed for their results to be available, and for deciding about penalties) and the deadline to report the results of conformity checks to the European Commission (May 31, as foreseen in Regulation (EEC) No 2568/91). However, it should also be noted that the Member States with the highest number of checks to perform (*Italy* and *Spain*) have in place systems to deliver the results by the set deadline. In case of further discussion on the modification of this deadline, a cost-benefit assessment of the adaptation to a new deadline should be carried out.
- **The EU provisions on conformity checks are perceived as quite complex by some Member States competent authorities.** In particular, Member States that are less familiar with the system of conformity checks on olive oils because they are non-producing countries or because the number of checks they have to perform is very low, have problems in having adequately skilled staff in charge of the performance of conformity checks. As general conclusion on this aspect, the study indicated the importance of skills and training of the staff involved in controls for ensuring their correct implementation.
- The **most problematic aspect of the EU system of conformity checks** emerged in relation to the **tasting panels**. According to the majority of the consulted stakeholders (especially competent authorities, but also business associations representing the interests of producers), the standardisation of methods for carrying out the organoleptic assessment can allow to consider it as an objective method rather than as a subjective one, despite it relies on persons rather than

equipment. This position is widely diffused, but there are some consulted stakeholders (a few competent authorities and some business associations, as well as individual operators) that reported about cases of inconsistent results across tasting panels or even within the same tasting panel, thus questioning the reliability of the method. In any case, also the strongest supporters of the organoleptic assessment stress the importance of continuous training and frequent updating of participants as well as of a strict application of the procedure of the method in order to obtain unbiased and consistent results. Overall, there is a positive judgement on the outcomes of organoleptic assessment. However, the issue of different classification of oils by different panels emerged in particular in relation to products that are on the margin (grey area) between two levels of classification (e.g. virgin and extra virgin olive oil). In order to solve controversial cases, a system of counter-assessments has been implemented.

The assessment of **challenges of cooperation practices with the EU** was mainly focused on the **notification system: in general, this system has been positively judged mainly because it harmonised the system to communicate the results of checks to the European Commission**. However, some operative bottlenecks and shortcomings were also identified, including the small but frequent changes in the format of Annex XXI and the fact that the Excel spreadsheet was generally judged to be not so user-friendly.

The assessment of the **challenges of the verification requests process is influenced by the relatively recent application of the Administrative Assistance and Cooperation (AAC) tool for the purposes of conformity checks on olive oil.** In general, in the views of Member State competent authorities, the recent decision to use this digital system for the communication among Member States facilitated the process and improved its efficiency. However, some operational challenges have been identified also for the use of the AAC system in the framework of conformity checks, mainly related to the language(s) used for compiling the request. It should anyway be considered that the European Commission is planning to extend the use of IT templates for the Rapid Alert System for Food and Feed (RASFF) to AAC. As in such templates the headings of mandatory fields to be filled are already available in a few languages, this should contribute to addressing in part the language concerns raised by Member States.

6.3 Conclusions on Theme III

Theme III is focused on the identification of instruments that can address the problems and gaps in the system of conformity checks, as identified under Theme II. The identification of those instruments is based on the **existing best practices** implemented at Member State level, which show the capacity to address the related needs of the conformity checks system effectively and efficiently. In addition, **new instruments and/or opportunities to improve the effectiveness and efficiency of the current approach** were also identified.

The following general improvements aimed at addressing the **most significant challenges of the system of conformity checks** emerged from the assessment:

- **Solutions aimed at improving the training of staff.** The organisation of EU trainings on olive oil legislation and conformity checks destined to national staff would not only disseminate the adequate technical knowledge to carry out checks, but would also foster the general cooperation among Member States.
- **Solutions aimed at improving the performance of organoleptic assessment.** In order to improve the performance of organoleptic assessment, several improvements have been suggested, among which the establishment of reference samples for the different olive oils against which national tasting panels can be trained, and the organisation of regular ring tests involving tasting panels from different Member States under the responsibility and the coordination of the European Commission.
- **Solutions for the improvement of labelling.** Some modifications of the labelling of olive oil have been proposed in order to facilitate the work of national competent authorities in performing checks (e.g. indication on the date of harvesting, date of bottling, etc.). However, these potential solutions should

be further explored and discussed in order to check their technical feasibility and to assess the impact they can have on the objective of ensuring adequate information to consumers.

The study also explored **potential solutions to ensure traceability in the olive oil sector**. The assessment of this issue indicated that the implementation of traceability systems is a potentially very useful tool to rely on for planning and performing conformity checks, as well as for detecting fraudulent practices in the olive oil sector. In *Italy*, the only Member State where a dedicated traceability system is in place, both competent authorities and business stakeholders have a very positive judgement of this tool and of its contribution to tackle non-compliances and food frauds. Nevertheless, further discussion and exchange of knowledge between Member States on this topic appeared to be necessary and should be encouraged, given the large variability in the importance of the olive oil sector across EU Member States and the large variety of opinions on the costs and benefits of this tool.

The study also identified **solutions for improving the approaches for notifying non-conformities to the European Commission**, in particular in terms of simplification of the format currently used. Possible **improvements in the communication of the results of conformity checks on olive oils** were related to: sharing of the full dataset between the European Commission and all Member States; publication of the results of conformity checks to the benefit of the general public.

Finally, suggestions for innovative approaches to the carrying out of conformity checks were put forward by two consulted competent authorities. One competent authority suggested to reduce the frequency of checks by organising specific controls campaigns for olive oils every two or three years. Another competent authority suggested to give priority to organoleptic assessment rather than to physico-chemical analysis. The authority observed that most of the defects are detected through organoleptic assessment, while on the other hand physico-chemical analysis often does not detect any non-compliance[42].

6.4 Overall conclusions

Member States generally consider that **the EU conformity checks system for olive oils is globally fit for purpose**, making olive oil one of the most controlled products in the EU food chain. In particular, Member States consider the control requirements to be adequate, including the minimum number of conformity checks to be performed annually, as set out by Regulation (EEC) No 2568/91, taking into account the characteristics of their domestic market and the need to control also other food products.

However, the study identified some **challenges and difficulties in the implementation of the system of conformity checks at Member State level**, often deriving from national specificities (e.g. multiple competent authorities involved in the system; insufficient funding; lack of skilled staff; lack of laboratories and/or tasting panels; lack of specific sanctions for non-conformities; etc.). The study also identified difficulties and challenges related to: the overall timing to perform checks and the deadline to report their results to the European Commission; the perceived complexity of the relevant EU legislation (especially by the competent authorities of non-producing Member States); organoleptic assessment through tasting panels, especially for what concerns the reliability of its results.

A number of **solutions aimed at addressing the most significant challenges of the system of conformity checks for olive oils** were proposed, including: solutions aimed at improving the training of staff; solutions aimed at improving the performance of organoleptic assessment; solutions for the improvement of labelling. Potential solutions to ensure traceability in the olive oil sector were also discussed, together with suggestions for innovative approaches to the carrying out of conformity checks for olive oils.

[42] Physico-chemical analyses are currently required by EU legislation and should be performed before carrying out the organoleptic assessment.

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