



Deutsch-Kasachischer Agrarpolitischer Dialog
Германо-Казахстанский аграрно-политический диалог



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"QAZAQ ORGANIC FOODS"

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Deutsch-Kasachischer Agrarpolitischer Dialog
Германо-Казахстанский аграрно-политический диалог



Report : Main proposed changes to the Draft Organic Law

Bulashev Berdibek, Chairman of the Technical Committee for Standardisation
No. 100 "Organic products"

Enbek LLP, 15 July 2021

Law on Organic Production and its bylaws

Rules for the Production and Circulation of Organic Products, approved by Order No. 230 of the Ministry of Agriculture of 23 May 2016

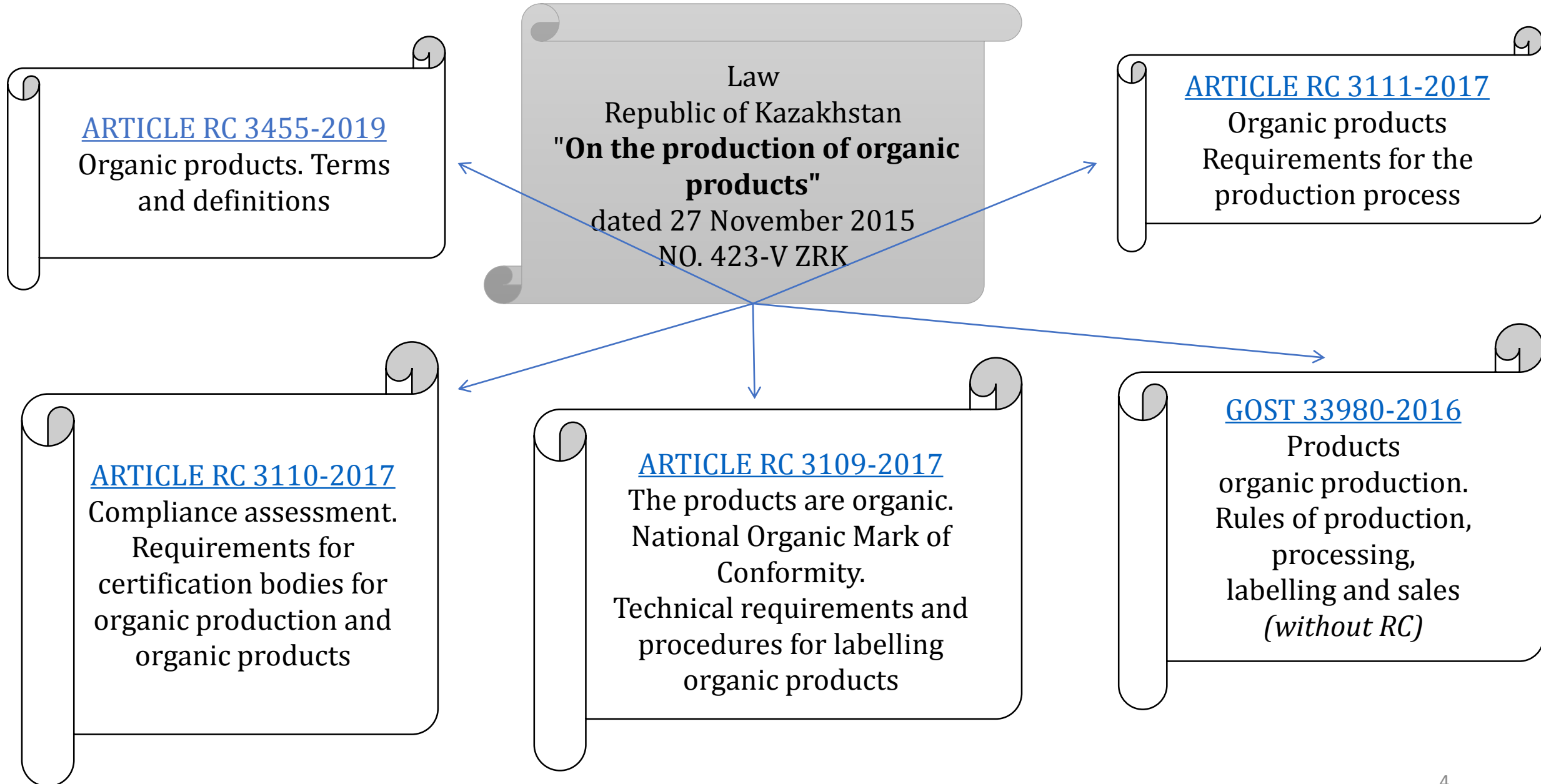
Rules for the Register of Organic Producers, approved by Order of the Ministry of Agriculture of 18 December 2015 №1-3/1102

Law
Republic of Kazakhstan
"On the production of organic products"
dated 27 November 2015
NO. 423-V ZRK

List of Approved Means of Organic Production, approved by Order No. 231 of the Ministry of Agriculture of 23 May 2016

Criteria for risk assessment and checklist in organic production, approved by a joint decree of the MoA and DHS of 28/29 December 2015

Interstate and national standards for organic production



The need to revise the Act in a comparatively short period of time and to develop a new version is due to the fact that

- The legislative and regulatory framework for organic production does not meet the legitimate interests of domestic organic producers, and is not consistent with international and regional organic production practices: *25 requirements of the Law include additional requirements stricter than the COROS; 18 COROS requirements are missing in the Law, by-laws and national standards;*
- In priority (for Kazakh exporters) markets, new regional rules for organic production are adopted and introduced, requiring specific infrastructural resources on a legislative basis;
- Within the integration associations in the former Soviet Union (CIS, EAEU), of which Kazakhstan is an active member, modular legislation and roadmaps are being developed to create a single market for organic products;
- A national team of experts with the theoretical knowledge and practical skills needed to further develop domestic organic production, both in legislative and practical terms, is being formed;
- Research and development activities are carried out on the basis of a state order to improve the legal framework and develop tools, methods, techniques and technologies for organic production, taking into account the soil and climate and production and economic conditions in Kazakhstan



Amending and supplementing the existing Law or drafting a new version of the Law?



Bill

"On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on the Production of Organic Products

Bill

"On the production and turnover of organic products"

According to Article 26(9) of the Law on Legal Acts of the Republic of Kazakhstan:

When the text of a legal act is amended and/or supplemented to an extent that exceeds half of the text of the legal act, a new version of the legal act shall be adopted.

When draft laws are redrafted, the unit for defining the scope is the article

The results of the **legal monitoring** of the Law on Organic Production have shown:

-
- 11 of the 18 articles of the Act in force are amended and supplemented



Problems of legal and regulatory regulation of organic production in the Republic of Kazakhstan



1. Mandatory certification of organic products

Organic certification is not certification of products, but certification of production processes. In this case, the final (organic) products must meet the requirements imposed by the current legislation of the Republic of Kazakhstan in the field of technical regulation for specific products.

For example, organic products - organic milk intended for human consumption - must meet the requirements of TR CU 021/2011, TR CU 005/2011, TR CU 022/2011 and specific technical regulations for homogeneous products - TR CU 033/2013 "On safety of milk and dairy products" and the related standards.

Certification of organic production is voluntary and does not replace the mandatory system of conformity assessment provided by the legislation in the field of technical regulation. *Forms of conformity assessment: declaration; veterinary-san examination of raw materials; state control (supervision); state registration of a new type of product.*

As can be seen from the above, the safety and quality of the organic end product is subject to the same regulations as for conventional products. However, the customer and the importing country may set their own additional requirements for organic products



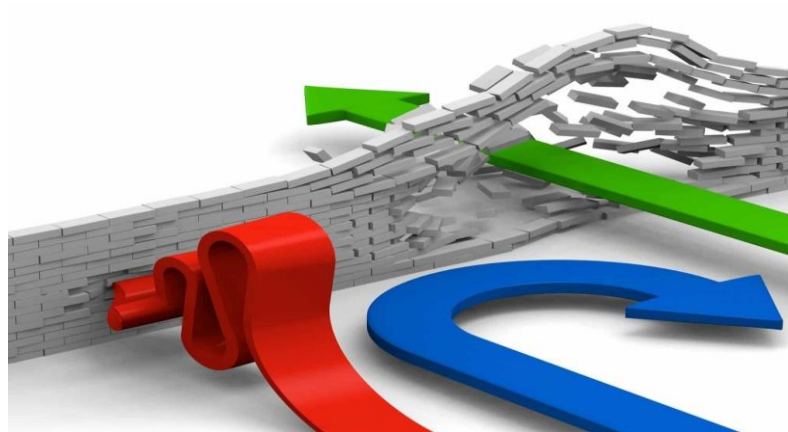
Problems of legal and regulatory regulation of organic production In the Republic of Kazakhstan



2. Certification of organic production and products in Kazakh legislation is the subject of 3 simultaneous documents (Law No. 423-V LRK dated November 27, 2015, MoA Order No. 230 dated 23.05.2016, ST RK 3111)

The certification requirements are contained in 3 documents simultaneously.

This approach contradicts not only international and inter-state practice, but also Kazakh legislation on technical regulation and standardisation





Problems of legal and regulatory regulation of organic production In the Republic of Kazakhstan



3. lack of opportunity for smallholder/peasant farms to be grouped into groups of operators to undergo group certification



4. lack of a national PGS (Participatory Guarantee System)



Problems of legal and regulatory regulation of organic production In the Republic of Kazakhstan



5. No subsidy for transition (conversion) costs and for the purchase of inputs (materials, substances, bioproducts) allowed in organic production

The AFVP has not harvested for 1 to 3 years, and consequently profits from vacant farmland that is in transition from conventional to organic farming.

There are now subsidies for the costs associated with certification of production and organic products



6. There is a significant legal conflict over the length of the transition (conversion) period

The by-laws (Order No. 230 of the MoA of 23.05.2016) and the national standard ST RK 3111 differ significantly in the duration of the transition (conversion) period



Problems of legal and regulatory regulation of organic production In the Republic of Kazakhstan



7. Mandatory transitional (conversion) period even for virgin and fallow land

Kazakhstan's legal and regulatory framework for organic production lacks an exception for a transition (conversion) period for virgin and fallow lands (when introducing them into organic farming), which has a negative effect on the activities of domestic business entities





Problems of legal and regulatory regulation of organic production In the Republic of Kazakhstan



8. Farmers/farmers, agriholdings and processing and food processing enterprises (operators) certified by foreign certification bodies are not able to sell organic products on the domestic market in the status and labelling of "organic", "bio", "eco"



9. Farmers/farmers, agriholdings and processing and food processing enterprises (operators) certified by foreign certification bodies are not eligible for subsidies to reimburse the costs of transition (conversion) and production certification



Problems of legal and regulatory regulation of organic production In the Republic of Kazakhstan



10. The supply, labelling and sale of organic products imported into the RoK is not subject to the current law

At present, these activities are indirectly regulated by legislation on technical regulation and trade.

In addition, since imported organic products are not regulated by existing law, they are marketed in Kazakhstan as "organic", "bio", "eco", which negatively affects the competitiveness of domestic companies





Problems of legal and regulatory regulation of organic production In the Republic of Kazakhstan



11. There is no regulation (at the level of determining the competence of a specific governmental body) of issues related to the registration and application of inputs (materials, substances, bioproducts and fertilisers) authorised in organic production

Biopreparations and other products not included in the List of Pesticides Allowed for Production (Formulation), Import, Storage, Transportation, Sale and Use in the Republic of Kazakhstan for 2013-2022 are advertised and sold in the market.





Problems of legal and regulatory regulation of organic production In the Republic of Kazakhstan



12 There is no legal provision for the creation of the necessary infrastructural resources for the effective functioning of organic production and trade in organic products



Problems of legal and regulatory regulation of organic production In the Republic of Kazakhstan



13. Lack of information, organisational, methodological and advisory support for organic producers at the legislative level



14. Lack of institutional and administrative measures to combat greenwashing and prevent pseudo-labelled organic products from entering the food market at the legislative level





Problems of legal and regulatory regulation of organic production In the Republic of Kazakhstan



15. Statistical indicators on sales, domestic consumption, exports and imports of organic products are not generated

Right now, we do not even have accurate information in the country on producers, nor on the volume of organic production and exports



Benefits of the revised Act compared to the current Act

(main changes introduced by the new RDA)



1. Rejection of 'legislative enforcement' of organic certification

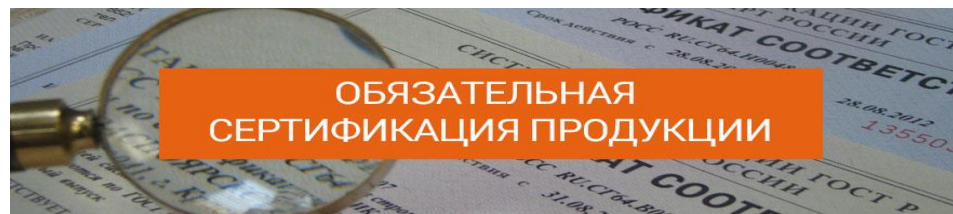
Only organic production processes will be subject to certification.

Certification of final products will make the certification process more expensive and domestic producers will incur additional costs, with a direct impact on the speed of delivery of contracted products and their competitiveness.

If an operator wishes to promote the additional competitive advantages of his organic products, he may apply for voluntary certification and have them tested under new parameters that are more interesting to the consumer (*new regulation of the Technical Regulations Act, effective as of 01.07.2021*).

Safety, end-product quality, soil quality and water purity are the responsibility of the organic product operator himself.

It should be noted that in practice certification bodies carry out research, product, soil and water analyses, irrespective of the legislation in force, as the certification results affect the image of the certification body itself





Benefits of the revised Act compared to the current Act

(main changes introduced by the new RDA)



2. Certification of organic production will be subject to market demand and preference

Certification of organic production must be based on the market demand and preference for **conformity with the requirements of the organic production standard chosen** (by the applicant-producer).

This may be a *national standard, an interstate (regional) standard, an international standard (IFOAM), the standard of a foreign country, a private standard of a foreign association* (as an additional procedure). Certification requirements must only be in the organic production standard

This approach will contribute to, among other things:

- The involvement of foreign certification bodies accredited to operate in the territory of the Republic of Kazakhstan in the Kazakh legal framework;
- The formation of statistical indicators on sales, domestic consumption, exports and imports of organic products.

Reduction of the act of subordinate regulation in the field of organic production: recognition as null and void of Order of the Ministry of Agriculture No. 230 of 23.05.2016. - *Rules of Production and Circulation of Organic Products*

Benefits of the revised Act compared to the current Act

(main changes introduced by the new RDA)



3. Possibility for smallholder/peasant farms to be grouped into groups of operators to undergo group certification

This approach would enable organic products to be sold on domestic and foreign markets. In doing so, the operator's consulting and certification costs will be reduced, resulting in products that can be sold at affordable prices, especially in the domestic market, where there is low purchasing power.

Organic producers are known to go through group certification in order to promote cooperation and grouping of organic producers and to reduce the organisational, management, certification and inspection costs for the individual producer

4. Possible formation of a National PGS system

Domestic smallholder farmers/cropping farms and household farms (subject to the PGS system) will be officially considered as producers of organic products for the local market

Benefits of the revised Act compared to the current Act

(main changes introduced by the new RDA)

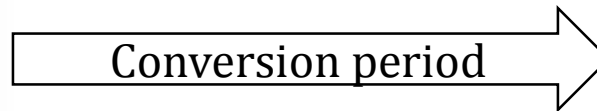


5. Virgin and fallow land (more than 3 years) will be introduced into organic crop production without a transition (conversion) period

6. Provision for subsidising transition (conversion) costs

As of March 2020, work has begun on amending the Rules for subsidising the development of agricultural production management systems, approved by Order No. 5-2/671 of the Ministry of Agriculture of 15.12.2014, including support for producers of organic products.

Provision is made to subsidise consulting and certification costs at a rate of 50%



7. The duration of the transition to organic production will be set in accordance with the rules of the chosen organic production standard

Benefits of the revised Act compared to the current Act

(main changes introduced by the new RDA)



8. Farmers/farmers, agriholdings and processing and food processing enterprises (operators) certified by foreign certification bodies will be able to sell organic products on the domestic market under the status and labels "organic", "bio", "eco"



9. Farmers/farmers, agriholdings and processing and food processing enterprises (operators) certified by foreign certification bodies will be able to receive subsidies to recover the costs associated with the transition (conversion) period and certification of production



Benefits of the revised Act compared to the current Act

(main changes introduced by the new RDA)



10. The supply, labelling and sale of organic products imported into the RoK will be regulated by the new Law

11. the necessary infrastructural resources for the effective functioning of organic production and trade in organic products will be established by law.

The functions of the authorised bodies will be reviewed. + KTRM

1. Register of seeds and planting material suitable for organic crop production and Register of organic animals and young organic aquaculture animals,
2. List of inputs allowed in organic production, including those agreed with the European Commission, taking into account differences in ecological balance in crop and livestock production, special soil and climatic conditions, traditions and local conditions of Kazakhstan
3. Agreement between the RoK and the European Commission on mutual recognition in the field of production and control (inspection) of organic products
4. Organic accounting and credibility system
5. Scientific databases on organic production, etc.

This approach will solve many of the production issues associated with sourcing organic seeds, animals, technologies, methods, inputs and practices. In addition, the functioning of the record keeping and credibility system will discourage unfair competition and fraud in the sale of organic products³³

Benefits of the revised Act compared to the current Act

(main changes introduced by the new RDA)



(12) Information, organisational, methodological and advisory support for organic producers will be provided at the legislative level

A systematic promotion of organic production technologies, methods, tools and practices and promotion of organic products will be provided for, which will also have a positive impact on the demand for organic products in the domestic market

This, too, is state support

13. There will be legislative provision for the management of risks associated with force majeure events

If Kazakhstan has officially recognised an event as a natural disaster and such an event makes it impossible to comply with the rules of production, the MA of Kazakhstan may authorise a derogation from the rules of production for a limited period of time until organic production is restored, subject to its principles

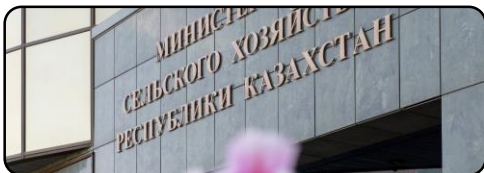
Force majeure events: "**adverse climatic events**", "**environmental accident**", "**natural disaster**" or "**catastrophic event**" (EU Regulation 2018/848)

Who is involved in drafting the bill at this stage



Senate of the Parliament of the Republic of Kazakhstan

Committee on Agrarian Affairs, Nature Management and Rural Development



Ministry of Agriculture of the Republic of Kazakhstan



Union of Organic Producers of Kazakhstan










**The German-Kazakh project
Agrarian and political dialogue**



**Technical Committee for Standardisation
No. 100 "Organic products"**

Organic farming is not a system of prohibitions and exceptions; it is primarily focused on:

-  **Adapted seed production** - selecting crop species and varieties according to their ability to adapt to local soil and climatic conditions and their resistance to pests and diseases
-  Development and implementation of **crop rotations** with legume crops. Cultivation of legume plants, cover crops, shrubs. **Sideration**
-  Using **own farm waste as fertiliser** (straw, humus, compost)
-  Preserving the natural balance in the soil through the use of **vermicompost and vermicompost**
-  **Soil mulching** (storing moisture, suppressing weeds, increasing fertility, regulating soil surface temperature, controlling wind and water erosion, etc.)
-  Application of **shallow cultivation** (hoeing, harrowing, discing)
-  Application of **biological methods and means of plant protection** against diseases and pests

Environment, Health, Justice, Care