

Organic Integrity:

Why a two step procedure in the new regulation is needed!

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Article XX - Obligations and action in the event of suspicion of non-compliance

*Building on the text under this Article, and with a view to complementing text under Article 20b, the Presidency proposes to include additional elements which clarify the procedure to be followed in case of non-compliance. **In this respect, the operator is obliged to fully cooperate with the competent authority (control authority or control body), however he/she is not given the possibility to make his/her own judgement.** The competent authority has the obligation to immediately initiate an official investigation which has to be carried out within a period that takes into account the nature of the product such as durability or the complexity of the case. During the investigations, products cannot be marketed as organic.*

This proposal has mayor risks:

1. For the Authorities:

Authorities will not be able to handle this situation. A practical case: an existing organic operator is taking full responsibility by doing around 8.500 organic samples with each 700 parameter a year. In close to 50% of the samples minor traces can be found. 90% of them are giving no relevant indication that something was going wrong in organic agriculture.

When this operator is transferring, as proposed in the presidency text, 4.250 analytical reports to the competent authorities in the member state, this CA will be already completely blocked. But please do not forget, that there are hundreds, may be thousands of other operators in the same member state. It will definitely not work to handle all these investigations and focus from relevant cases concerning the organic integrity will get lost due to the huge amount of notifications.

2. For the operator:

If each suspicion is leading to a note for the CA with a follow up in official administrative procedures, this will block mayor capacities within companies and CB/CA and will in worst case draw public awareness and financial losses to those operators taking responsibility and establishing well-functioning quality assurance systems. This depends much on the behavior of CA. But in the past, not much optimism was spread around in regard to those problems by CA.

In tendency there is a risk that these requirements will destroy motivation for internal quality checks. From this requirement will benefit operators taking only a minimum on responsibility

3. For the organic quality system:

Because of this proposal only those operators are encouraged that are taking a minimum on responsibility – for example not taking samples at all. They will have a much easier life and no

problems with CA/CB. This is creating the opposite of a positive incentive for the operators to take full responsibility.

The ongoing confusion on responsibilities and notification obligations based on current article 91 of 889/2008 will continue. There is a completely chaotic implementation of that requirement in Europe with a lot of market distortion and unfair market conditions.

What is needed?

The new organic regulation needs to overcome the weaknesses of current regulation which is in tendency excluding by insufficient requirements the competence of the market actors for guaranteeing organic integrity and is creating a completely inharmonic implementation in Europa and third countries. By doing so, it is facilitating fraud. And this must be turned around. The new regulation should create a harmonized approach for organic integrity and prevention of fraud. Therefore the following actions are needed:

1. The new organic regulation needs first of all to clarify clearly the responsibility of operators and CBs and the interface between both. The operators need to take full responsibility for identifying possible non-compliances as result of implemented risk based management tools and for taking first clarification steps. The Maltese presidency is proposing the wrong direction.
2. Operators need to get a primary responsibility for identifying possible non-compliances and for taking precautionary measures. The current regulation has set up such requirements for organic processors since 2008 in article 26 of ECC Reg. 889/2008 (Organic Critical Control Points OCCP). The same requirements are now proposed to be set up in Annex II. Part VI, 1.1 to 1.4. It is not completely understandable why only for processors. In minimum, these requirements should be expanded to all type of raw material traders, better to all operators. Further on there is a proposal to establish in Art. 20 a) precautionary measures.
3. To integrate these requirements in the internal quality assurance systems, appropriate to the size and type of the operators (especially trade and processing), is a first important step where the operator is demonstrating his competence and responsibility. Further on those systems established in the operation, need to be accepted and their implementation checked by CB/CA. The result of actions taken within such quality and risk based management concepts is documented. (Those systems already introduced and well known by operators because of HACCP concepts established by hygiene regulation or private certification system as established by IFS or BRC.)
4. Further on, via a delegated act for operators and CA/CB further details for action points set up in the companies and used by CA/CB, should be set up.
5. Based on that, the only way is to put clear responsibility on the shoulders of operators by introducing a clear two-step procedure. The operator has to identify possible risks on the level of suppliers and ingredients and has to check if there are hints for non-compliance and is responsible for a first investigative check of such hints/suspicions. He needs to take a first action in clarifying the case in accordance to the established quality assurance system, appropriate to the size and type of operation, and as agreed with the CB/CA. If the result of this primary check shows up, that there is the primary suspicion, which can be substantiated, than this information shall go immediately to the CA/CB.
6. This will create a situation, where the operators are empowered, the CAs stay workable and the integrity of organic products in the market will be facilitated.

If you want to improve the organic integrity you need to empower the operators!