

Interpretation

25.01.2022

Free movement of goods in the EU

Interpretation of Article 29 (5)

The new EU Organic Regulation 2018/848 has been in force since 01.01.2022. In the context of the revision process, there has been a lot of discussion about how to deal with suspected cases of non-compliance. The different member states of the EU have very different views on this issue, which is shown by the fact that some member states have introduced their own limit values for organic products. If these values are exceeded, the goods can only be sold conventionally. In the past, this has repeatedly led to challenges and obstacles to the free movement of goods in the EU, as many companies trade their products throughout Europe.

The EU intends to address the issue in more detail in 2026. Until then, it clarifies that any nationally introduced measures must not hinder the free movement of goods.

Recital 71 says:

*In the absence of such further harmonisation, Member States that have developed approaches to avoid products that contain a certain level of products or substances not authorised for use in organic production for certain purposes being marketed as organic or in-conversion products should have the possibility to keep applying those approaches. **However, in order to ensure the free movement of organic and in-conversion products in the internal market of the Union, such approaches should not prohibit, restrict or impede the placing of products produced in other Member States in compliance with this Regulation on the market. Such approaches should therefore only be applied to products produced on the territory of the Member State that has chosen to continue to apply that approach.** Member States that decide to use this possibility should inform the Commission without delay.*

This is then also reflected in Article 29 (5), Regulation (EU) 2018/848:

*(5) Member States having in place rules providing for products that contain more than a certain level of products or substances not authorised pursuant to the first subparagraph of Article 9(3) for use in organic production not to be marketed as organic products **may continue to apply those rules, provided that those rules do not prohibit, restrict or impede the placing on the market of products produced in other Member States as organic products, where those products were produced in compliance with this Regulation.** Member States that make use of this paragraph shall inform the Commission without delay.*

For example, a product produced or processed in Germany or Austria may also be sold as organic in other EU states, even if it exceeds a limit value prescribed there. This is made very clear by the legislator's choice of the trilogy of words "prohibit, restrict and impede".

The Association of Organic Food Processors e.V. (AöL) represents the interests of the food processing industry in German-speaking Europe. The AöL's tasks include the political representation of interests and the promotion of exchange and cooperation among its members. The more than 120 AöL companies, ranging from small and medium-sized enterprises to internationally active companies, generate a turnover of more than 4 billion euros with organic food. The AöL is a discussion partner for politics, business, science and the media in all matters of organic food processing.

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