

# Meeting of the Regional Expert Advisory Working Group on Organic Agriculture within the “Agriculture Policy Dialog Germany - Western Balkan” Project

03. November 2022

Requirements of the new EU regulation on the  
import of organic products from "third countries" to  
the European market

## Structure

- I. Introduction
- II. Changes relating to import controls
- III. Controls on consignments
- IV. Obligations in cases of suspicion of non-compliance
- V. Key message

# I Introductions

What do new rules  
mean for imported  
organic products?

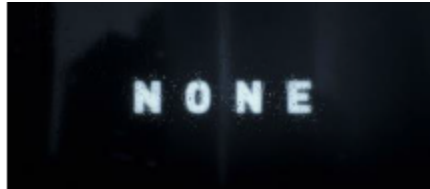


## I Introduction (2)

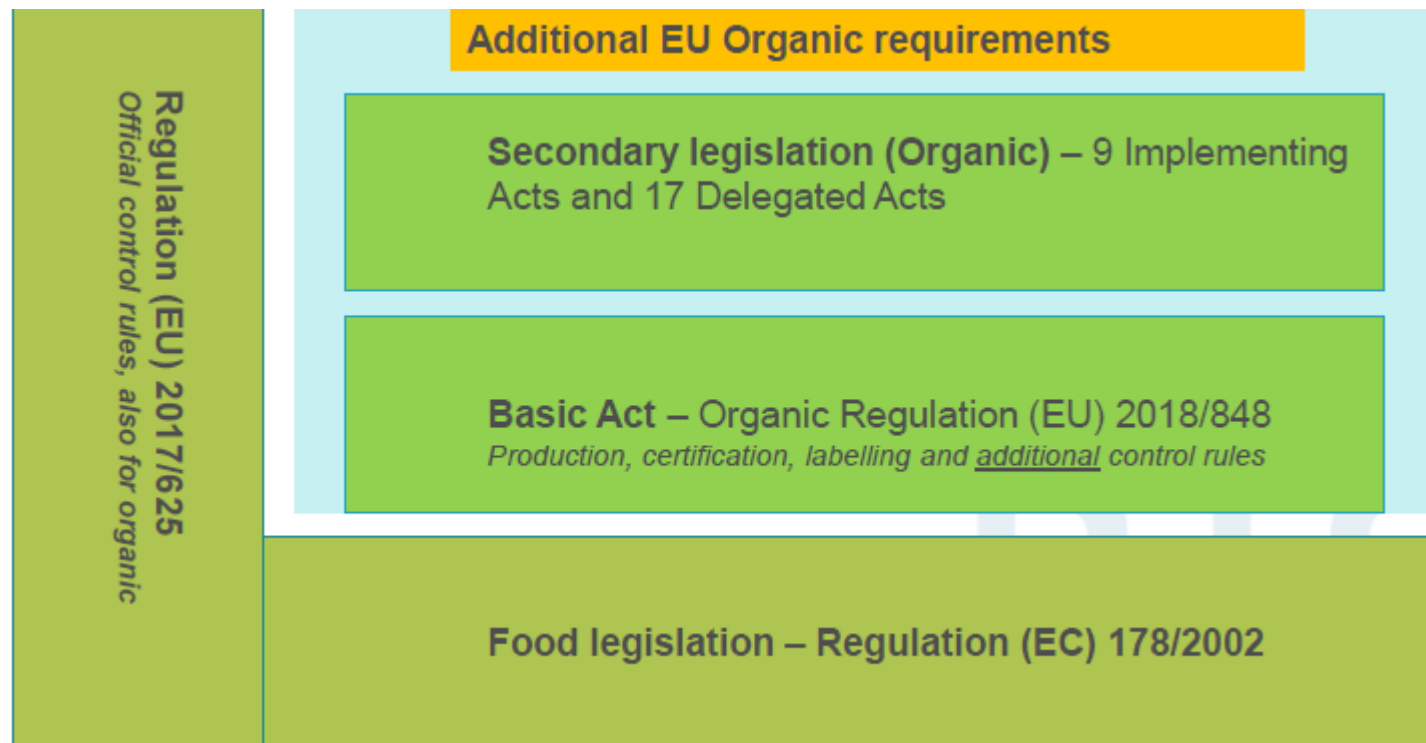
- New regulation not only covers organic products but also products imported into the EU from other countries.
  - Rather than producing to standards considered equivalent to EU rules, **producers in TCs must now comply with the same set of rules as those in the EU.**
- THIS IS A MOVE FROM THE PRINCIPLE OF EQUIVALENCE TO THE PRINCIPLE OF COMPLIANCE

## I Introduction (3)

- In how many Third Countries (TC) compliant system already introduced?



# Changes in Control requirements



## II Changes Import controls - Third Countries (TC)

IMPORT CONTROLS - EU 1	New OR	Old Regulation	Comments
	<p>CA at BCP or point of release for free circulation shall perform:</p> <ul style="list-style-type: none"><li>• <b>documentary checks</b> on <u>all consignments</u></li><li>• <b>identity checks</b> carried out <u>randomly</u> and</li><li>• <b>physical checks</b> at a frequency depending on <u>risk assessment</u></li></ul> <p><i>Reg. (EU) 2021/2306, Art. 6</i></p>	<p>CA at BCP to verify the consignment shall perform:</p> <ul style="list-style-type: none"><li>• <u>systematic</u> <b>documentary checks</b></li><li>• <u>random</u> <b>identity checks</b> and</li><li>• as appropriate according to its <u>risk assessment</u>, <b>physical checks</b></li></ul> <p><i>Reg. (EC) 1235/2008, Art. 13(1)(b) &amp; Art. 2(5)</i></p>	<p>Equivalent requirements between new and old OR</p>

## II Changes Import controls – TC (2)

	New OR	Old Regulation	Comments
IMPORT CONTROLS - TC 1	<p>CtrlA/CB shall carry out systematic <b>documentary checks</b> on every consignment</p> <p><i>Reg. (EU) 1698, Art. 16(1) &amp; Reg. (EU) 2021/2306, Art. 3(2)</i></p>	<p>CtrlA/CB issuing the COI shall carry out a <b>documentary check</b> on every consignment</p> <p><i>Reg. (EC) 1235/2008, Art. 13(4)</i></p>	<p>Equivalent provisions between old and new OR</p>
	<p><b>Documentary checks</b> shall aim to verify the traceability of products/ ingredients, volume of products is in line with relevant mass balance checks &amp; relevant transport/commercial documents</p> <p><i>Reg. (EU) 2021/1698, Art. 16(3) &amp; Reg. (EU) 2021/2306, Art. 3(5)</i></p>	<p>No relevant provision</p>	<p>Robust requirement in new OR – association with traceability/ mass balance checks</p>



## II Changes Import controls – TC (3)

The traceability check shall cover at least the following elements :

- a) the name and address of the supplier of the products;
- b) the name and address of the consignee of the products;
- c) the certificate of the supplier

⇒ Intension is to confirm products received or sent by the operator are organic or in conversion.

The mass balance check shall cover e.g. the following elements :

- a) the nature and the quantities of products delivered to the unit
- b) any losses, increase or decrease in quantity of products at any stage of production, preparation and distribution; ...

⇒ Purpose is to determine the balance between the input and output of the operator and in particular the plausibility of the volumes of organic or in conversion products.

DR 2021/771, Art. 1

## II Changes Import controls – TC (4)

	New OR	Old Regulation	Comments
IMPORT CONTROLS - TC 2	<p><b>Documentary checks</b> shall be based on:</p> <ul style="list-style-type: none"><li>• all relevant documents,</li><li>• the certificate,</li><li>• the latest record of the inspections,</li><li>• the production plan for the product concerned,</li><li>• records kept by the operators or GoO,</li><li>• available transport documents,</li><li>• commercial and financial documents and</li><li>• any other documents</li></ul> <p><i>Reg. (EU) 2021/1698, Art. 16(3) &amp; Reg. (EU) 2021/2306, Art. 3(5)</i></p>	<p><b>Documentary checks</b> are based on:</p> <ul style="list-style-type: none"><li>• relevant inspection documents,</li><li>• production plan for the product concerned &amp;</li><li>• commercial documents</li></ul> <p><i>Reg. (EC) 1235/2008, Art. 13(4)</i></p>	Clear and detailed requirements laid down in new OR

## II Changes Import controls – TC (5)

	New OR	Old Regulation	Comments
IMPORT CONTROLS - TC 4	<p><b>Physical checks</b> based on specific risk assessment criteria:</p> <ul style="list-style-type: none"><li>• the relevant 14 sets of criteria listed in Reg. (EU) 2021/1698, Art. 9(2)</li><li>• whether several operators involved in the distribution chain of the products who do not store or physically handle organic products</li><li>• high-risk products</li><li>• any other criteria deemed relevant by CtrlA/CB</li></ul> <p>Reg. (EU) 2021/1698, Art. 16(4) &amp; Reg. (EU) 2021/2306, Art. 3(2)</p>	<p><b>Physical checks</b> on consignments as appropriate according to CtrlA/CB risk assessment</p> <p>Reg. (EC) 1235/2008, Art. 13(4)</p>	<p>Risk criteria for physical checks clearly specified in new OR – physical checks more efficiently allocated - introduction of the new principle of “high-risk products”</p>

### III Controls on consignments

Of course, there are many EU rules to be observed for this control area as well, e.g.:

DR 2021/2306 on „official controls on imported product and on Certificate of Inspection (COI) lays down rules as regard:

- ✓ The **verification to be carried out by CtrlA/CBs** in the TCs on consignments of organic products to be exported to the EU;
- ✓ **Official controls by CAs of the MSs** on consignment of organic products imported from TCs.
- ✓ **Actions in cases of non-compliance** with OR to be taken by Cas or CtrlA and CBs in TCs

## III Controls on consignments (2)

Controls on **EXPORTED** organic consignments (verification in the TC) include (Art. 3 DR 2021/2306):

- **Documentary checks**  
(systematic)
- **Physical checks** (risk based)

Checks shall be carried out before the consignment leaves the third country of export or of origin

Controls on **INCOMING** organic consignments (verification at BCP/point of entry) include (Art. 6 DR 2021/2306) :

- **Documentary checks**  
(always)
- **Physical checks** (risk based)
- **Identity checks** (random)

Checks shall be carried out on organic consignments prior to their release for free circulation into the Union

## III Controls on consignments (3)

Commission Delegated Regulation (EU) 2021/2306 Art. 6  
Official controls on consignments

CA at BCP or Point of release for free circulation shall perform CONTROLS ON CONSIGNMENTS for the verification of compliance with R (EU) 2018/848

Documentary checks on all consignments

Identity checks carried out randomly

Physical checks at a frequency depending on likelihood of non-compliance

Decision on the consignments recorded in box 30

- (a) The consignment can be released for free circulation as organic
- (b) The consignment can be released for free circulation as in-conversion
- (c) the consignment can be released for free circulation as non-organic
- (d) The consignment cannot be released for free circulation
- (e) Part of the consignment can be released for free circulation with an extract of the certificate of inspection

For consignments of HRP CA shall carry out systematic **identity checks** and **physical checks** and take at least one representative sample of the consignment and check **traceability**.

Art. 6.2



## IV Obligations in cases of suspicion of non-compliance

In order to take the correct and appropriate measures in the event of a suspicion, a toolbox is required.

Therefore CB/CrtIA (TCs; DR 2021/1698, Art. 22 (3) ) or CA (IR 2021279, Art. 8 CA) shall develop a catalogue of measures. It shall cover at least:

- A **list of non-compliances** with reference to the specific rules of OR
- The **classification of the non-compliances** shall distinguish between three categories:  
minor, major and critical

## IV Obligations in cases of suspicion of non-compliance (2)

Elements for the development and application of the catalogue of measures: 3 categories with 4 criteria

CATEGORY OF NON-COMPLIANCE	PRECAUTIONARY MEASURES	INTEGRITY OF ORGANIC PRODUCT	TRACEABILITY	RESPONSE TO PREVIOUS REQUESTS
MINOR	<i>Proportionate and appropriate Efficient controls</i>	<i>Not affected</i>	<i>efficient traceability system in place</i>	
MAJOR	<i>No appropriate precautionary measures and controls inefficient</i>	<i>affected</i>	<i>affected product can be located</i>	<i>Failed to correct previous minor non compliances</i>
CRITICAL	<i>Not proportionate precautionary measures and inefficient controls</i>	<i>compromised</i>	<i>traceability system NOT IN PLACE</i>	<i>Failed to correct previous major N-C or repeatedly fails to correct other categories of N-C</i>

‘integrity of organic or in-conversion products’ means the fact that the product does not exhibit non-compliance which:  
(a) in any stage of production, preparation and distribution affects the organic or in-conversion characteristics of the product;  
or (b) is repetitive or intentional;



## IV Obligations in cases of suspicion of non-compliance

- **Precautionary Measures of the operator** shall be proportionate and appropriate to:
  - identify the **risks of contamination** of organic production and products with non-authorized products or substances
  - **avoid risks of contamination of organic production** and products with non-authorized products or substances
  - **ensure separation of organic, in-conversion** and non-organic products

## Obligations in cases of suspicion of non-compliance

*The Commission recommends the following approach (MEETING OF THE WORKING GROUP ON NON-COMPLIANCES on 1 June 2022):*

- According to the legislation, everything starts with a **suspicion of non-compliance**, which could be due to the **presence of non-allowed products and substances**.
- If the operator **cannot eliminate this suspicion**, **goods should be blocked** and the competent authority, control body and/or control authority should be informed.
- In addition, the Commission services highlighted the need for **opening immediately an investigation** (while provisionally blocking the goods), an investigation that according to the legislation would have to conclude, at least, on the integrity of organic and in-conversion products, the source and cause of the presence of non-authorized products or substances, the precautionary measures, and the measures taken in response to relevant previous requests (2018/848, Art. 29; 2021/279, Art. 2).

## 4 Key Messages

- The EU has clarified the control system, but whether it has been strengthened depends in particular on practicable implementation.



**Thank you for your attention!**

**Diskussion / Questions**