Requirements for EU supervision of non-EU organic control bodies

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EU clarifies rules on information to be provided by non-EU organic control authorities/bodies for their supervision by the Commission

Commission Delegated Regulation (EU) 2024/230 of 25 October 2023 amending Delegated Regulation (EU) 2021/1342 as regards the information to be sent by third countries and by control authorities and control bodies for the purpose of supervision of their recognition under Article 33(2) and (3) of Council Regulation (EC) No 834/2007 and the measures to be taken in the exercise of that supervision

Update

The European Commission has clarified what information non-EU organic control authorities and control bodies must provide to allow the EU to supervise their work. It also details the steps the Commission may take to verify the work of these bodies.

Impacted products

All organic products

What is changing?

Delegated Regulation (EU) 2021/1342 sets out the procedure in place for non-EU organic control authorities (public sector) and control bodies (private sector) during the transitional period until the expiry of their current recognition, or until they are officially recognised under the new EU Organic Regulation (see Background).

This Regulation clarifies the procedures for supervision of non-EU control authorities/bodies by the European Commission, and for regular reviews of their recognition, during this transitional period. This includes the information that they must provide to the Commission in order for them to be supervised, including through on-the-spot examination. It also sets out the measures to be taken by the Commission if an irregularity is suspected and substantiated, including possible suspension or withdrawal from the lists of recognised non-EU countries or control authorities and control bodies.

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Supervision of non-EU countries (Art. 1)

The rules introduce clearer procedures for responding to identified problems with imported organic products. Non-EU competent authorities (public authorities responsible for official controls of food) must investigate any reports of suspected infringement of organic rules raised by the Commission, and report back within 30 days in a certain format (in line with Regulation 2021/1698, Annex III).

Supervision of control authorities/bodies (Art. 2)

Today the Commission regularly reviews control authorities/bodies on the basis of annual reports. This Regulation sets more detailed information requirements, and steps that the Commission can take to check the information provided.

What the European Commission can do

Under these rules, the Commission is able to:

- request from control authorities/bodies "any further information" it requires, not only (as today) information concerning the annual report
- organise risk-based, on-the-spot examinations of control authorities/bodies (foreseen today in relation to competent authorities only).

What non-EU control bodies must do

Control authorities/bodies have to:

- notify the Commission of any changes to technical dossiers within 30 days
- assist on-the-spot examinations required by the Commission by providing the information requested
- investigate any reports of suspected infringement of organic rules raised by the Commission and report back within 30 days in a certain format (in line with Regulation 2021/1698, Annex III)
- ensure that a new operator (or group of operators) that has been found to be non-conforming by previous control authorities/bodies is only certified once the identified problems have been addressed.

Review of recognition of non-EU countries (Art. 3)

Previously the Commission had to withdraw non-EU countries from the list of recognised countries if they failed certain requirements (e.g. presenting relevant information on time). Under the new rules, the Commission has greater flexibility when deciding whether to withdraw a country from the list.

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The grounds for withdrawing recognition are extended to include:

- if an on-the-spot examination comes up with a negative result due to a systematic malfunctioning of the control measures
- any other situation where there is a risk of consumers being misled about the true nature of the products certified by the non-EU country.

Review of recognition of control authorities/bodies (Art. 4)

To ensure that control authorities/bodies have time to supply information before the Commission makes a decision on suspending or withdrawing recognition, the new rules introduce a time period of at least 30 days for providing that information.

The grounds for withdrawing recognition are extended to include:

- failure to communicate information on investigations of non-compliance
- failure to send information requested in the context of an on-the-spot examination.

Why?

As the new EU organic regime is rolled out, the Commission is clarifying the procedures for the supervision of non-EU control authorities/bodies, and the regular review of their recognition (see Background).

Non-EU control authorities/bodies need to know what information to provide when potential problems regarding organic products from non-EU countries are notified to the Commission. More clarity is also needed as to when and what action the Commission can take to get further information on organic production in non-EU countries.

Timeline

This Regulation applies from **12 January 2024**.

These rules only apply to the current EU organic system in which equivalence is recognised. These rules for control authorities/bodies will only be relevant until end 2024; the rules for non-EU competent authorities will apply until end 2026. After that, the EU's recognition of equivalence will expire (see Background).

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What are the major implications for exporting countries?

The obligation to investigate potential non-compliance at the request of the Commission already exists (Regulation 2021/1698, Art. 21). It now applies to competent authorities (as well as control authorities/bodies); and relates to all potential non-compliance with Regulation 834/2007 (rather than only "non-compliance affecting the integrity of imported organic or in-conversion products").

The new rules require more information from non-EU competent authorities and control authorities/bodies, but are clearer, particularly where the organic status of production is being challenged by the EU. Other changes, such as introducing a minimum time period for responding to requests, will also provide greater certainty for non-EU competent authorities and operators.

Recommended Actions

Control authorities/bodies can apply for accreditation against the new regulation until **31 December 2024**.

Background

Regulation (EU) 2018/848 ("the Organic Regulation") is the basic Act that lays down the EU rules on organic production and labelling of organic products. It revised and strengthened the controls system, trade regime and production rules that had been in place since 2007. It brought in a fundamental change to the regulatory approach, moving from the principle of *equivalence* to the principle of *conformity*. The earlier Regulation (EC) 834/2007 recognised that organic goods could be produced in ways that were different, but *equivalent* in terms of their outcome and alignment with organic principles. Under the new Regulation, this changes to a system of compliance: producers in non-EU countries that do not have equivalence recognised in a trade agreement with the EU or are not recognised as an equivalent country under Regulation 834/2007 will have to conform with exactly the same set of rules as those in the EU. For more information see New EU Organic Regulation Explained.

The existing equivalence agreements (with 13 countries) will be replaced by trade agreements. Some 60 control bodies worldwide, that are currently operating organic standards recognised as equivalent, will be officially recognised (approved) under the new compliance regime. Existing recognition of equivalent countries will expire on 31 December 2026. Existing recognition of equivalent control bodies will expire on 31 December 2024. **Control authorities/bodies can apply for accreditation against the new regulation at any time between 1 January 2022 and 31 December 2024.**

Secondary legislation has been introduced detailing how the new rules will operate, and how control bodies will be officially recognised under the new organic regime. Importantly, Regulation

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(EU) 2021/1342 sets out the rules and procedures for control authorities/bodies that will apply in the transitional period, before the new regime is fully applied. It states that **until control authorities/bodies are officially recognised under the new Organic Regulation, they will continue to audit according to the equivalence regime** (and the production rules and control arrangements laid down in Regulations (EC) 834/2007, (EC) 889/2008 and (EC) 1235/2008).

During this transitional period, the Commission must ensure that control authorities/bodies in non-EU countries continue to be supervised appropriately. The new Regulation clarifies what information non-EU organic control authorities/bodies must provide to the EU for the purposes of supervision, and the steps the Commission may take to verify their work.

Resources

Regulation 2021/1698 supplementing 2018/848 with procedural requirements for the recognition of control authorities and control bodies that are competent to carry out controls on operators and groups of operators certified organic and on organic products in third countries and with rules on their supervision and the controls and other actions to be performed by those control authorities and control bodies

Regulation 2021/1342 supplementing 2018/848 with rules on the information to be sent by third countries and by control authorities and control bodies for the purpose of supervision of their recognition under Regulation No 834/2007 for imported organic products and the measures to be taken in the exercise of that supervision

Regulation (EU) 2018/848 (the Organic Regulation)

Regulation 834/2007 on organic production and labelling of organic products

Sources

Regulation 2024/230 as regards the information to be sent by third countries and by control authorities and control bodies for the purpose of supervision of their recognition and the measures to be taken in the exercise of that supervision

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