



European Organic Certifiers Council

**New Rules
for Organic Agriculture**

**Civil Dialogue Group meeting
European Commission
November 16, 2018**



cooperating for reliability

Regulation 2017/848

The annual verification of compliance...

What does the regulation provide for?

Regulation 2017/848

■ Art 38.3

In any case, all operators and groups of operators, with the exception of those referred to in Articles 34(2) and 35(8), shall be subject to a **verification of compliance** at least once a year.

The verification of compliance **shall include a physical on-the-spot inspection**, **except** where the following conditions have been satisfied:

(a) the **previous controls** of the operator or group of operators concerned **have not revealed any non-compliance affecting the integrity of organic or in-conversion products during at least three consecutive years**; and

(b) the operator or group of operators concerned has been assessed on the basis of the elements referred to in paragraph 2 of this Article and in Article 9 of Regulation (EU) 2017/625 as presenting a **low likelihood of non-compliance**.

In this case, the **period between two physical on-the-spot inspections shall not exceed 24 months**.

Regulation 2017/848

■ Art 38.5

5. The **delivery or renewal of the certificate** referred to in Article 35(1) **shall be based on the results of the verification of compliance** referred to in paragraphs 1 to 4 of this Article.

Regulation 2017/848

■ Art 38.6

6. The written record to be drawn up regarding each official control that has been performed to verify compliance with this Regulation in accordance with Article 13(1) of Regulation (EU) 2017/625 shall be countersigned by the operator or groups of operators as confirmation of their receipt of that written record.

Regulation 2017/848

■ Art 38

Does not provide for DA or IA to further develop “verification of compliance”...

Unless 38.8 is related to verification of compliance as well:

Delegated act (38.8): The Commission is empowered to adopt delegated acts

...

-supplementing this Reg by laying down specific criteria and conditions [...] to ensure traceability (as a mandatory aspect of verification of compliance?)

3. According to EOCC, there are several « challenges » included in Art 38.3, 38.5 and 38.6:

Challenge 1: clarify/define « Verification of compliance »:

- 1) There is no minimum set of requirements to be verified (cfr current art 63-90 under Reg 889/2008) prior to issuance of a certificate?
- 2) Which are the detailed records operator have to keep and keep available in case of verification of compliance?
- 3) How will this verification of compliance be supervised? (In the EU and out of the EU?)
- 4) It can become a study of documents, reporting writing, sending it back and forth to obtain signatures and then sign the certificate

3. According to EOCC, there are several « challenges » included in Art 38.3 and 38.5:

A physical on the spot inspection (cfr art 14 Reg 2017/625?)

Official control methods and techniques shall include the following as appropriate:

- (a) an examination of the controls that operators have put in place and of the results obtained;
- (b) an inspection of:
 - (i) equipment, means of transport, premises and other places under their control and their surroundings;
 - (ii) animals and goods, including semi-finished goods, raw materials, ingredients, processing aids and other products used for the preparation and production of goods or for feeding or treating animals;
 - (iii) cleaning and maintenance products and processes;
 - (iv) traceability, labelling, presentation, advertising and relevant packaging materials including materials intended to come into contact with food;

3. According to EOCC, there are several « challenges » included in Art 38.3 and 38.5:

Challenge 2: extend the concept of the on-the-spot inspection according to requirements for organic:

- verification of the operators declaration in relation to reality
- verification of the records in relation to reality (amounts, dates, stocks, ...)?
- a distinction between the non-organic, in-conversion and organic production units?
- the separation between those production units?

3. According to EOCC, there are several « challenges » included in Art 38.3 and 38.5:

Previous controls have not revealed any non compliance affecting the integrity of organic or in-conversion products during at least three consecutive years:

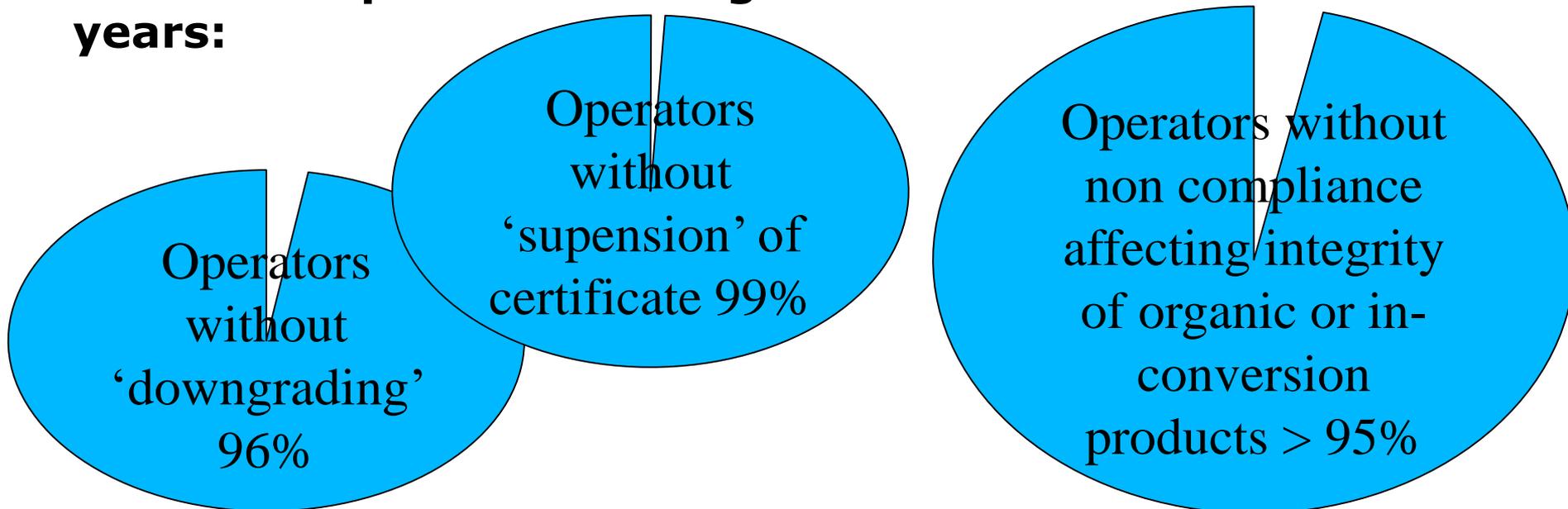
-affecting the integrity = linked to art 42.1:

« ensure no reference to organic production in labelling of entire lot or production run » and

to 42.2: « prohibit an operator from marketing products which refer to organic production »

3. According to EOCC, there are several « challenges » included in Art 38.3 and 38.5:

Previous controls have not revealed any non compliance **affecting the integrity of organic or in-conversion products during at least three consecutive years:**



3. According to EOCC, there are several « challenges » included in Art 38.3 and 38.5:

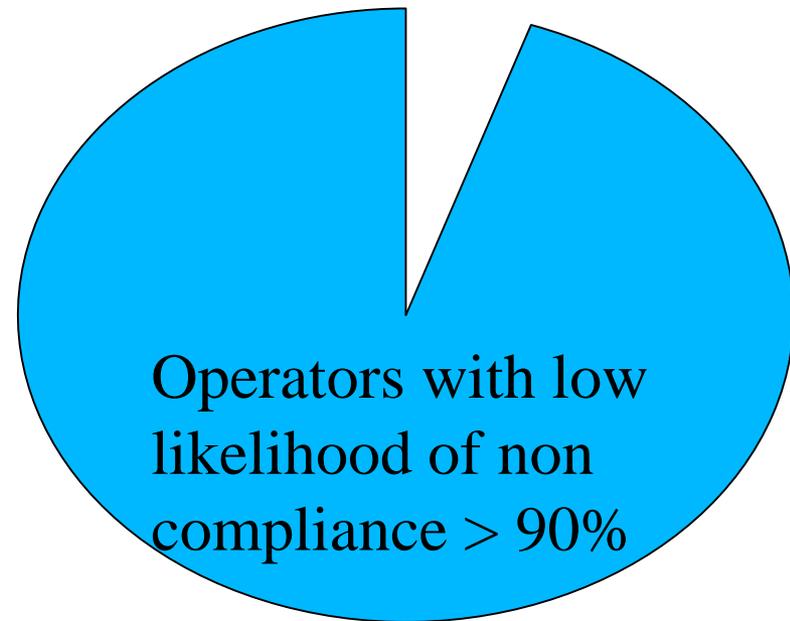
Low likelihood of non compliance

-In the absence of precise rules for the application of the assessment of risk, harmonised application of Art 38.2 can not be guaranteed

-pending the outcome of DA of Art 38.9(b) (minimum % of additional controls) and Art 38.9(c) (minimum number of samples to be taken), operators not subject to additional controls and/or sampling will be considered as operators representing low likelihood of non compliance

3. According to EOCC, there are several « challenges » included in Art 38.3 and 38.5:

Low likelihood of non compliance

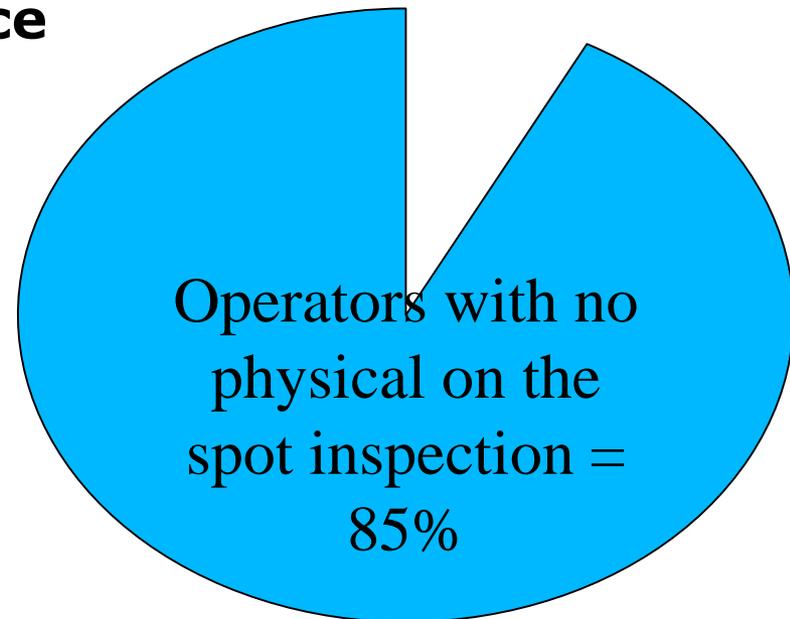


3. According to EOCC, there are several « challenges » included in Art 38.3 and 38.5:

Previous controls have not revealed any non compliance affecting the integrity of organic or in-conversion products during at least three consecutive years = max 95%

+

Low likelihood of non Compliance = 90 %



3. According to EOCC, there are several « challenges » included in Art 38.3 and 38.5:

Challenge 3: Please ensure stakeholders that the new regulation will not result in a situation where only 15 % of all the organic operators will be subject to an on-the-spot inspection.



3. According to EOCC, there are other « challenges » because of these new rules

Imagine... verification of compliance at a farmer on 30/12/2023 covering his agricultural activities since 07/01/2022: what if

- he used non authorised substances in June 2022
- he mixed organic and in-conversion products in August 2022
- he sold his milk to a dairy company which exports to the USA
- ...

3. According to EOCC, there are other « challenges » because of these new rules

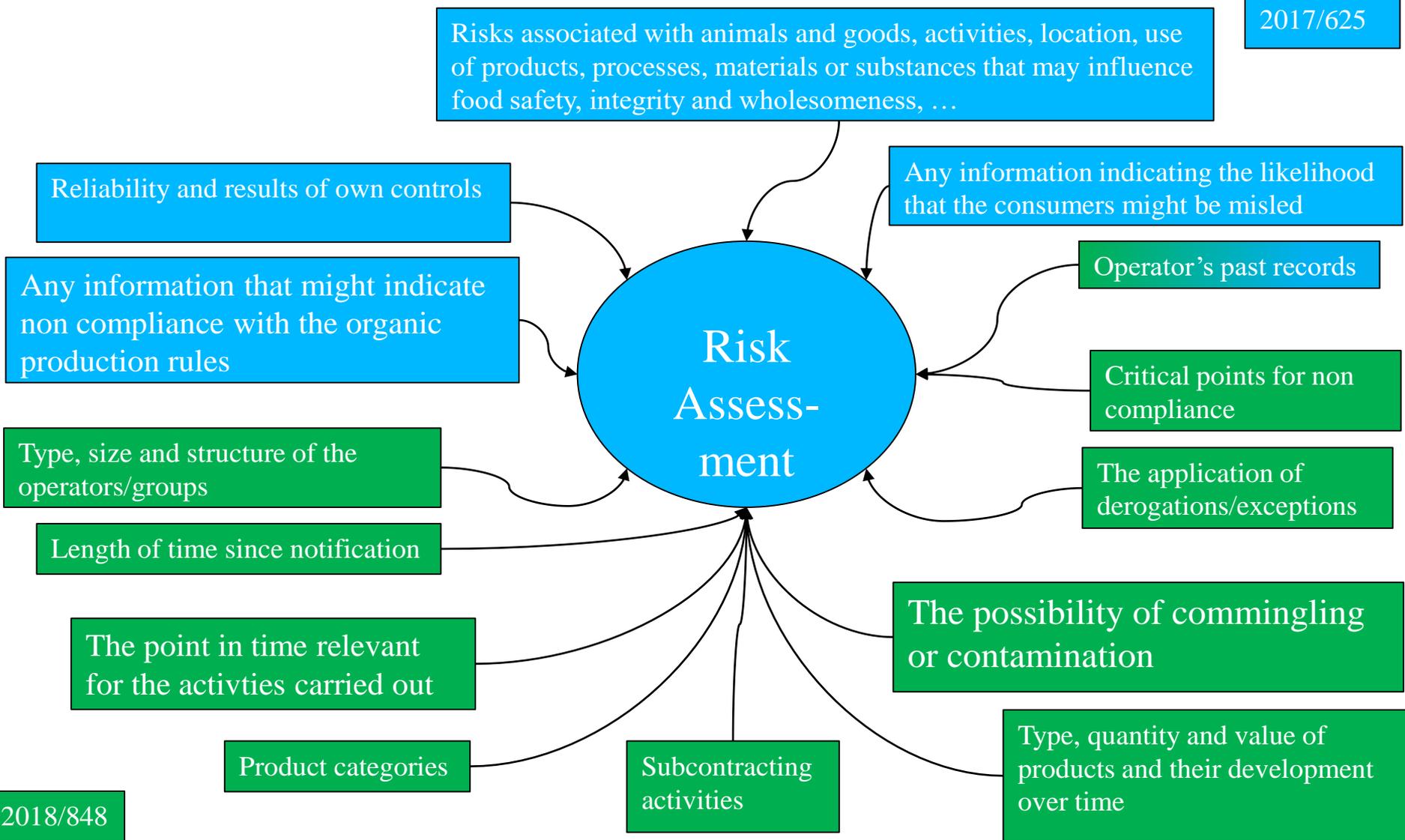
Imagine... verification of compliance at a farmer on 30/12/2023 covering his agricultural activities since 07/01/2022:

- => It will be **too late** to take any action to prevent non compliant products from being placed on the market
- ⇒ It will be **very difficult** to apply suspension of the certification in 2024 for non compliances in the year 2022
- ⇒ But if CB does it anyhow then Authorities have to decide about
 - => Handling of **reporting** of these consequences for year (N-1) but also for year (N-2)?
 - => Handling of this reporting by **paying agencies** receiving information from N-2 and subsidies paid already?

3. According to EOCC, there are other « challenges » because of these new rules

Challenge 4: Convince the stakeholders of the organic sector that the new regulation will reduce the number and amounts of non compliant products entering/being placed on the market e.g. by

- organising effective (continuous) supervision
- monitoring of the CB/CA risk based approach of operators activities and
- the exchange of information and the impact thereof on the controls



Not « fixed » during one year

Risks associated with animals and goods, activities, location, use of products, processes, materials or substances that may influence food safety, integrity and wholesomeness, ...

Reliability and results of own controls

Any information indicating the likelihood that the consumers might be misled

Any information that might indicate non compliance with the organic production rules

Operator's past records

Risk Assessment

Critical points for non compliance

Type, size and structure of the operators/groups

The application of derogations/exceptions

Length of time since notification

The possibility of commingling or contamination

The point in time relevant for the activities carried out

Type, quantity and value of products and their development over time

Product categories

Subcontracting activities

3. According to EOCC, there are other « challenges » because of these new rules

Challenge 5: Convince the stakeholders of the organic sector that the new regulation will result in more effective controls by applying a **flexible risk assessment** translated in

- conducting controls (including sample taking) relevant in time
- adapted to risks identified continuously

Summary of the challenges of the annual verification of compliance:

1: clarify/define « Verification of compliance »

2: extend the concept of the on-the-spot inspection according to requirements for organic

3: ensure stakeholders that the new regulation will not result in a situation where only 15 % of all the organic operators will be subject to an on-the-spot inspection.

4: convince the stakeholders of the organic sector that the new regulation will reduce the number and amounts of non compliant products entering/being placed on the market

5: Convince the stakeholders of the organic sector that the new regulation will result in more effective controls by applying a **flexible** risk assessment

Conclusion

Annual verification of compliance and annual on-site-inspections are cornerstones of the organic control system.

**EOCC requests that
deviations from that frequency
should be subject to
prior authorization
from Competent Authorities**



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Thank you for your attention