AntiFraud Initiative

Good (and bad) approaches for official investigations: A reality check

A SYSTEMATIC APPROACH FOR OFFICIAL INVESTIGATION

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AntiFraud Initiative

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1. The legal framework

The launch of an official investigation to determine the source and cause is a key element.

- *"Where the competent authority, or, where appropriate, the control authority or control body receives substantiated information about the presence of products or substances that are not authorised, it shall **immediately** carry out an official investigation **in a view to determining the source and the cause**."*(Article 29(1) of Regulation 2018/848).

- According to Article 2(3) of Regulation 2021/279, "*the official investigation **shall conclude** on the **source and cause of the presence** of non-authorized products or substances*".

1. The legal framework

Please note *Whereas 69* of the EU Organic Regulation:

> "*Such investigations should be **proportionate** to the suspected non-compliance, and therefore should be completed as soon as possible within a reasonable period, taking into account the durability of the product and the complexity of the case*" (Whereas 69 of Regulation 2018/848).

- The temporary blocking of organic batches for the duration of official investigations may have significant economic consequences depending on the particularities of the case and create administrative burden.
- An official investigation is **not** a research and development project, but based on the state of the current knowledge.

2. Operationalising the Approach

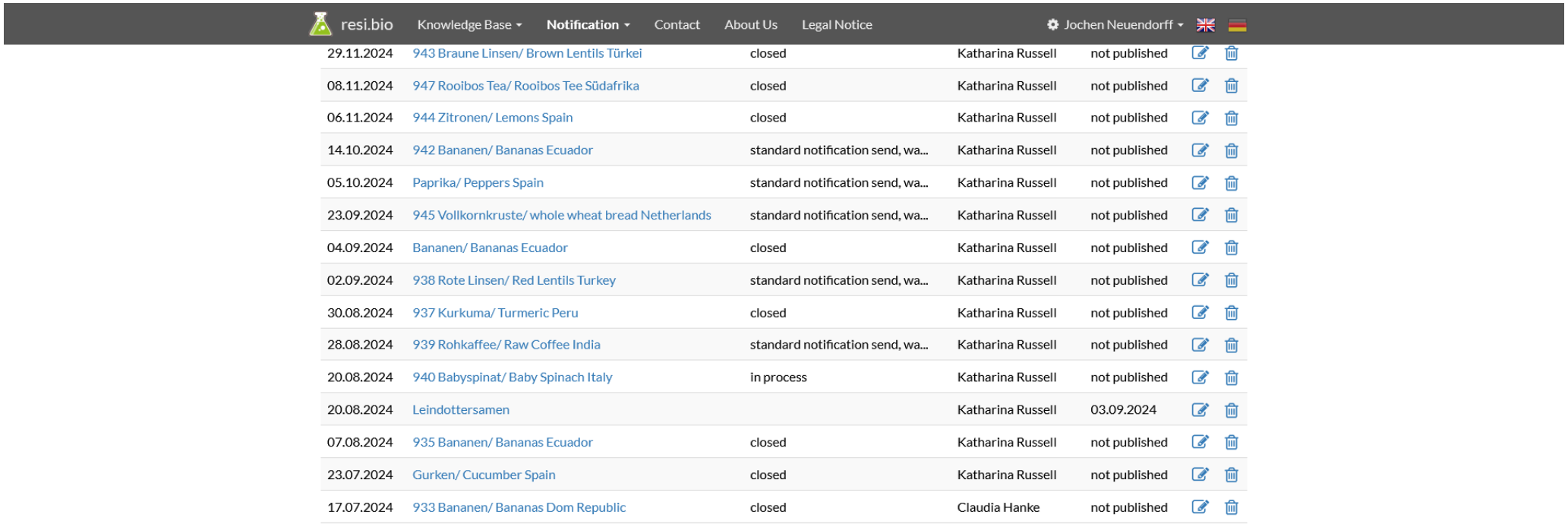
First step: Review of documentation

- Reliability of sampling and analysis: documented and traceable sampling, (accreditation of the laboratory, see Art. 37 (6) of Reg. (EU) 2017/625)
- Type of chemical compound detected and matrix analysed
- Relevance of the chemical compound found for the crop concerned
- Operator non-compliance history

2. Operationalising the Approach

Second step: Establish hypothesis on the source

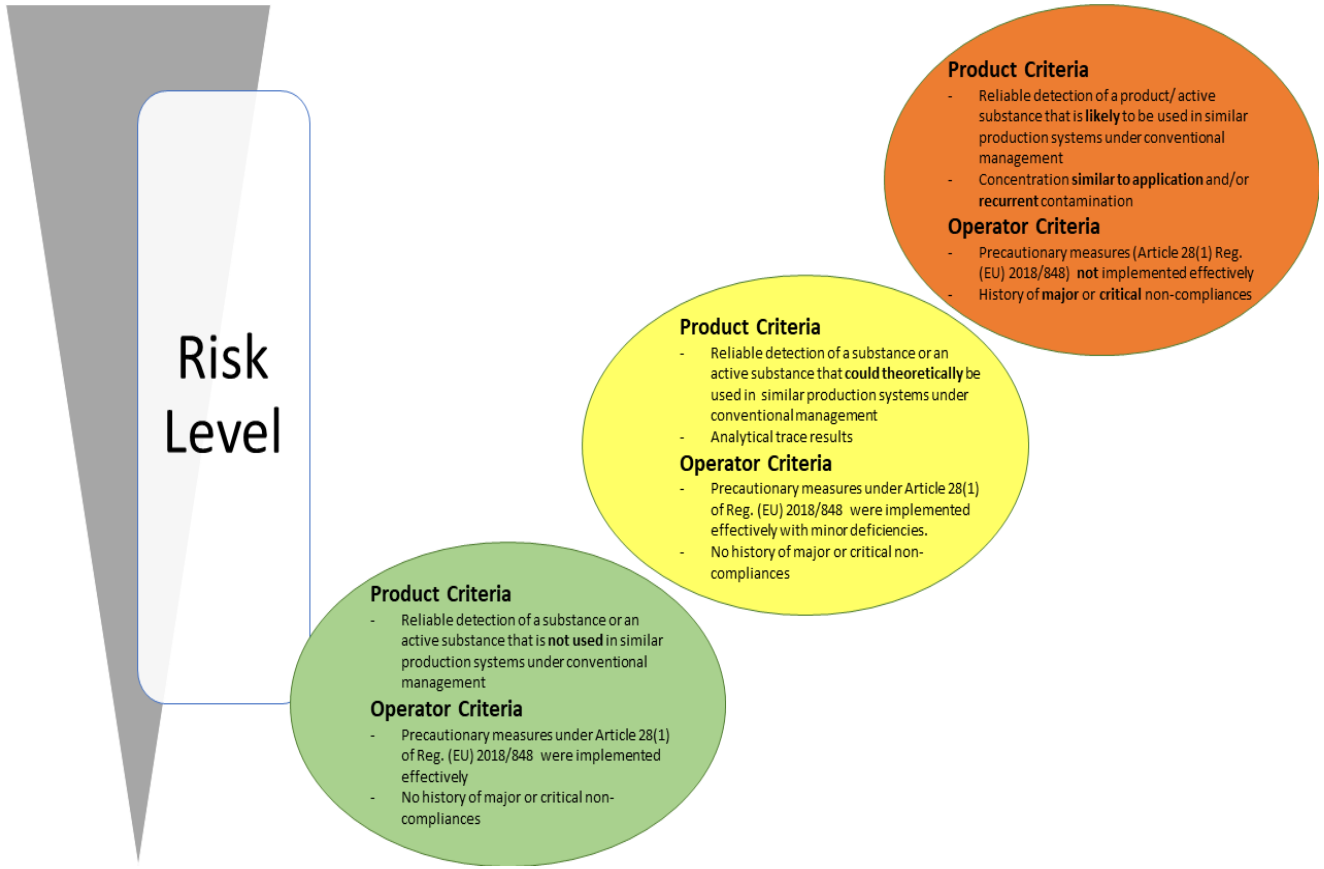
- Use, commingling, cross-contamination, environmental contamination, natural presence



29.11.2024	943 Braune Linsen/ Brown Lentils Türkei	closed	Katharina Russell	not published	
08.11.2024	947 Rooibos Tea/ Rooibos Tee Südafrika	closed	Katharina Russell	not published	
06.11.2024	944 Zitronen/ Lemons Spain	closed	Katharina Russell	not published	
14.10.2024	942 Bananen/ Bananas Ecuador	standard notification send, wa...	Katharina Russell	not published	
05.10.2024	Paprika/ Peppers Spain	standard notification send, wa...	Katharina Russell	not published	
23.09.2024	945 Vollkornkruste/ whole wheat bread Netherlands	standard notification send, wa...	Katharina Russell	not published	
04.09.2024	Bananen/ Bananas Ecuador	closed	Katharina Russell	not published	
02.09.2024	938 Rote Linsen/ Red Lentils Turkey	standard notification send, wa...	Katharina Russell	not published	
30.08.2024	937 Kurkuma/ Turmeric Peru	closed	Katharina Russell	not published	
28.08.2024	939 Rohkaffee/ Raw Coffee India	standard notification send, wa...	Katharina Russell	not published	
20.08.2024	940 Babyspinat/ Baby Spinach Italy	in process	Katharina Russell	not published	
20.08.2024	Leindottersamen		Katharina Russell	03.09.2024	
07.08.2024	935 Bananen/ Bananas Ecuador	closed	Katharina Russell	not published	
23.07.2024	Gurken/ Cucumber Spain	closed	Katharina Russell	not published	
17.07.2024	933 Bananen/ Bananas Dom Republic	closed	Claudia Hanke	not published	

2. Operationalising the Approach

Third step: Risk analysis and definition of investigation method(s)

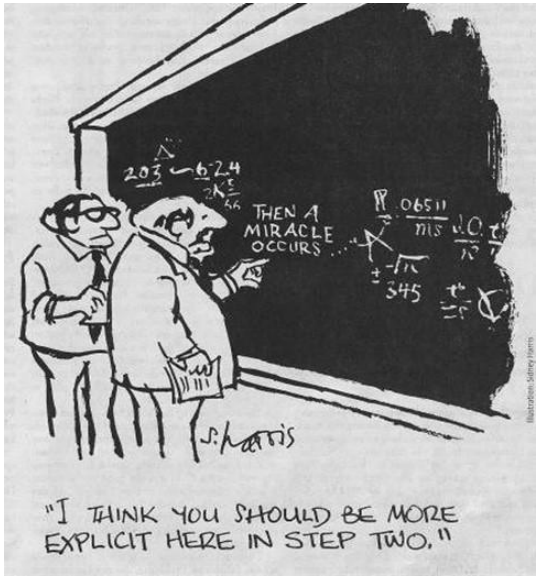


2. Operationalising the Approach

Fourth step: **Investigation and conclusion (including objective evidence)**

I. **Investigation** (depending on the context: review of documentation, on site-visit, sampling and analysis or **combination of methods** to successively confirm/eliminate the different hypotheses)

II. **Decision based on probability** and **objective evidence**



4. Some examples

0,079 mg/kg Bifenthrin, 0,029 mg/kg Diazinon and 0,005 mg/kg Difenoconazole in Olive Oil imported from Palestine

I. Documented sampling by German official food control and importer in DE

II. Analysis in an accredited laboratory in Germany

III. Hypothesis: Use or commingling
Risk analysis: Green for importer. Imported lots were blocked temporarily.
Inspection method / GfRS: Document review with a view to mass balance and traceability (bottled product imported)
Inspection method / Third country CB: Inspection on site

IV. **Source** based on objective evidence (Third country CB):
Prohibited use of Bifentrin, Diazinon and Difenococazole
Cause: Intentional.

V. Duration: 20 weeks (sampling to closing the OFIS case)

5) What is the outcome of the investigation?	The source of the contamination of the olive oil lots XYZ has been identified during the investigation: • Use of unauthorized products/substances. Indeed, during the investigation, 1 farmer that contributed to olive oil lots XYZ was found with pesticide products containing bifenthrin and difenoconazole and applied it to his olive fields. Regarding diazinon, the exact source was not found. However, application occurred for the other molecules and commingling/mixing, cross contamination and environmental contamination were excluded, so CB considered that the most probable source of contamination is also an application.

4. Some examples

Sorbic acid in red wine Shiraz-Cabernet Sauvignon imported from South Africa: 86 mg/l

I. Documented sampling by GfRS in the bottling facility of the importer in DE

II. Analysis in an accredited laboratory

III. Hypothesis: Use or cross contamination (dry wine!)
Risk analysis: yellow for importer. Imported lots were blocked temporarily.
Inspection method / GfRS: Inspection on site with a view to implementation of precautionary measures, mass balance and traceability
Inspection method / Third country CB: Inspection on site

IV. Source based on objective evidence (Third country CB): Prohibited use of Potassium sorbate and conventional grape concentrate
Cause: human error.

V. Duration: 12 weeks (sampling to closing of OFIS case)

4. Some examples

Pirimiphos-Methyl in bulk cereals imported from a Third Country: 0,014 mg/l

I. Documented sampling by competent authority responsible for approving organic imports in Germany

II. Analysis in an accredited German laboratory

III. Hypothesis: Unknown (Import authority, CB's)
Risk analysis of operator: Unknown (CB's).
Inspection method importer: **No** sampling of dust in storage concerned.
Inspection method / Third country CB: Sampling of a different lot. **No** sampling of dust in storage concerned.

IV. Source based on objective evidence: Unknown.
Cause: Unknown.

5. Lessons learned

Three elements are essential for a successful official investigation across a supply chain:

I. A high level of **Competence** amongst all actors

II. The Willingness to **cooperate**

III. A factual, targeted **Communication** including **Objective evidence** for an hypothesis

Thank you very much!

Is this organic?