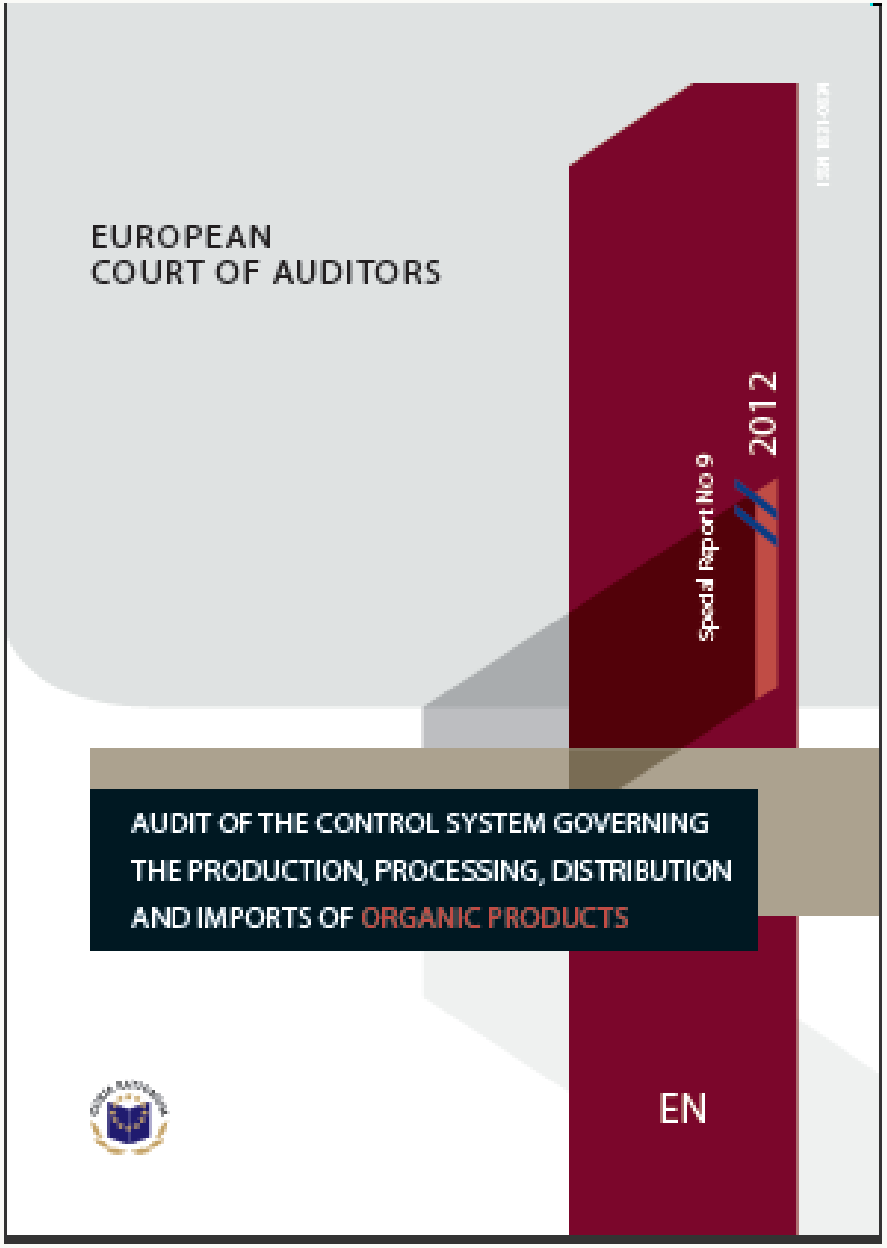


The audit and its conclusions

by Maria Eulàlia Reverté i Casas, NR 4 – European Court of Auditors

Focus of the audit (1/2)

- Within the audit work for the preliminary study, the team carried out a extensive **risk analysis**
- The risks could be grouped into:

  - Environmental aspects → Covered by audit on AEM
  - Market aspects → No direct responsibility of the Commission or of the MS

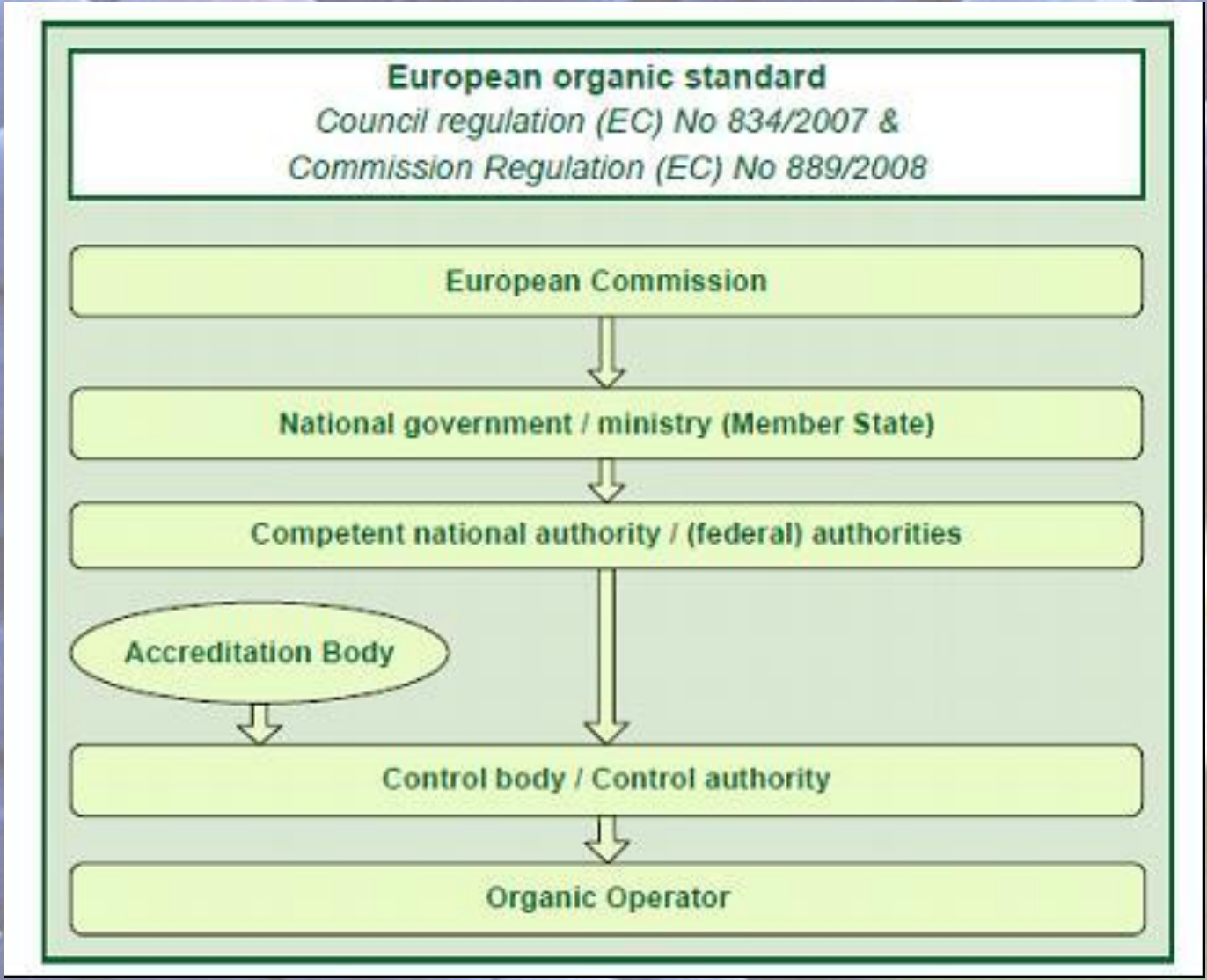
  - Authenticity of the organic products / consumer's confidence -> CONTROL SYSTEM → **YES !!!** … why?

Focus of the audit (2/2)

Because…

- It's one of the objectives set in the Council Regulation;
- Pointed by DG AGRI H3 as the key element that guarantees the organic market well functioning;
- It concerns ALL the expenditure/efforts/resources dedicated to OF;
- It's on the interest of the general public and of all the stakeholders working in the sector;
- The ECA is well placed to do such analysis;
- It's a risky area;
- There is scarce literature on the subject;
- The Commission had to present a report, mainly about the control system, to the Council by the end of 2011 (art. 41 Council Reg 834/2007).

Control system scheme



Main risks (1/2)

- Very quick market development + situations of under-supply = conventional products may be sold as organic
- The longer the chain of operators, the higher the risk
- Private interest of control bodies may affect the rigour of the controls

Main risks (2/2)

- Member States may not have right procedures in place
- Member States rely on control bodies and do not carry out supplementary controls
- Low Commission priority for auditing Member State control systems
- Few Commission staff for approving control systems in third countries

Main Audit Question

(L. 1) Does the control system for organic products provide sufficient, relevant and reliable assurance

that key requirements for organic production, processing, distribution and imports are fulfilled?

- (L.2) For products produced and consumed in EU

- (L.2) For products imported from third countries and consumed in EU

Audit structure

Does the control system for organic products provide sufficient assurance that the key requirements for organic production, processing, distribution and imports are fulfilled?

For organic **products produced and consumed in the EU**:

Does the control system provide sufficient assurance that the key requirements are fulfilled?

- Does the **Commission** supervise Member States control system in a way to provide sufficient assurance that the key requirements are fulfilled?
- Do **Member States** control systems provide sufficient assurance that the key requirements are fulfilled?
  - Do **Competent Authorities** provide sufficient assurance that the key requirements are fulfilled?
  - Do **Accreditation Bodies** provide sufficient assurance that the key requirements are fulfilled?
  - Do **control bodies/authorities** provide sufficient assurance that the key requirements are fulfilled?

For organic products **produced outside the EU and consumed inside the EU**:

Does the control system provide sufficient assurance that the key requirements are fulfilled?

- Does the control system in place for **imports thorough national authorisations** provide sufficient assurance that the key requirements are fulfilled?
  - Does the **Commission** supervise Member States control system in a way to provide sufficient assurance that the key requirements are fulfilled?
  - Do **Competent Authorities in MS** provide sufficient assurance that the key requirements are fulfilled?
  - Do **control bodies/authorities in MS** provide sufficient assurance that the key requirements are fulfilled?
- Does the control system in place for **imports through the list of equivalent third countries** provide sufficient assurance that the key requirements are fulfilled?
  - Does the **Commission** control system provide sufficient assurance that the key requirements are fulfilled?
  - **Do control bodies/authorities in MS** provide sufficient assurance that the key requirements are fulfilled?

Audit scope (1/2)

- Wide diversity of products:
  - fresh / processed,
  - vegetal / animal origin
- Large geographic area
  - Member States / third countries
- Diversity of operators:
  - producers / processors / importers / distributors

Audit scope (2/2)

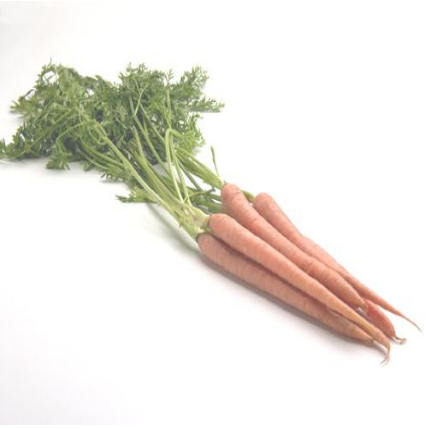
- Different procedures:
  - Products produced and consumed in the EU
  - Products imported through the «equivalent third country list»
  - Products imported through national import authorisations

Sources of evidence (1/2)

- Meetings with the services of DG AGRI and DG SANCO (FVO).
- Review of Commission files (*documentation received by the Commission from MS and also from third countries).*
- Audit visits to six Member States (UK, DE, IT, ES, FR and IE) which included:
  - documentary reviews,
  - meetings with competent authorities, with accreditation bodies and with two private CBs per MS,
  - on-the-spot visits to producers, processors and importers. accompanying the inspectors in order to evaluate the quality of the inspection and understand how they carry out documentary checks and the checks on production practices.

Sources of evidence (2/2)

- Sample of products to carry out:
  - Traceability checks on 85 products verifying (a) whether it was possible to identify the full chain of operators who had intervened in supplying the products, (b) whether all of the operators hold an organic certificate.
  - Laboratory tests carried out on 73 products to check control bodies procedures when taking samples and interpreting laboratory results.



- An assessment report carried out by an internationally recognised expert contracted by the Court *(focused on the quality of control bodies' procedures when carrying out laboratory tests and on the interpretation of the laboratory results of the 73 products).*

Structure of the Report

Recom. 1

Recom. 2

Recom. 3

Recom. 4

Recom. 5

Recom. 6

Conclusions and recommendations (1a/6)

Conclusion 1

- The Court found examples where competent authorities do not sufficiently fulfil their supervisory role over control bodies. As a result certain control bodies fail to satisfy a number of EU requirements and fail to take the opportunity to implement certain good practices. The Court recommends that:

Recommendation 1

Competent authorities should strengthen their supervisory role over control bodies by applying appropriate procedures for approving and supervising control bodies, by promoting harmonisation in the definition of infringements, irregularities and corresponding sanctions, and by promoting identified good practices.

Conclusions and recommendations (1b/6)

What is behind conclusion 1

- Procedures for approving, withdrawing or supervising control bodies not sufficiently detailed.
- Insufficient information by CAs to properly supervise that operators are inspected at least once a year.
- Systematic risk assessment of operators against risk factors linked to the nature of their operation not always applied by control bodies.
- Rotation of inspectors not ensured.
- Residue testing not optimised
  - minimum number of analyses or that is based on a risk analysis
  - substances
  - qualified interpretation
  - checks to test production processes
  - one sample.
- Different sanctions for same non-compliance.
- Often incomplete checks by control bodies on importers and imported products.

Conclusions and recommendations (2a/6)

Conclusion 2

- The exchange of information within Member States and from Member States to the Commission and other Member States is not yet adequate to ensure that the system is operating correctly. The Court recommends that:

Recommendation 2

Member States should ensure a direct flow of all relevant information on infringements and irregularities from the control bodies to the paying agencies and vice versa; and the Commission should specify the form and timing of communications of infringements and irregularities, introduce appropriate measures to ensure that Member States respect their reporting obligations and revise the information system provided for the communication of infringements and irregularities and consider including communications affecting third countries.

Conclusions and recommendations (2b/6)

What is behind conclusion 2

- Insufficient information flow between the control system for organic production and the support scheme for rural development measures concerning subsidies for organic farming.
- Late reporting by some MS on the implementation of the multi-annual control plan.
- Limited information relating to the organic control system in the annual reports (similar finding already reported in the SR “the verification of agri-environment expenditure”.
- Significant differences regarding the timing when communicating irregularities through OFIS, despite the fact that communication is required to be ‘immediate’.
- Often late Member States’ replies to notifications.

Conclusions and recommendations (3a/6)

Conclusion 3

- Competent authorities in Member States encounter difficulties in ensuring the traceability of the organic products within the territory for which they have authority. Traceability is even more difficult to achieve for products crossing borders. The Court recommends that:

Recommendation 3

Controls should be strengthened to ensure that operators fulfil the regulatory requirements regarding traceability; in this regard the Commission should clarify the roles and responsibilities of the different actors.

Conclusions and recommendations (3b/6)

What is behind conclusion 3

- Within 3 months -> 40 % of the products could not be traced back to the producer level ; within 6 months -> 32 % of the products still could not be traced back.
- Within 3 months -> the information requested (identification of operators down to producer level and certificate of conformity for each of the operators identified) was complete for only 48 % of the products; within 6 months -> for only 56 % of the products the documentation provided was complete.
- A number of factors are detrimental to the reliability of the control system:
  - no clear reference to producers or producer groups on group certificates,
  - group certification for countries other than developing countries,
  - documents that are similar to the certificate of conformity but that do not have the same value.

Conclusions and recommendations (4a/6)

Conclusion 4

- The Commission has not given enough priority to supervision activities, including audits, to ensure the proper functioning of the Member States' control systems. The Court recommends that:

Recommendation 4

The Commission should strengthen its monitoring of Member States' control systems by undertaking audit visits and gathering and exploiting the necessary data and information.

Conclusions and recommendations (4b/6)

What is behind conclusion 4

- Insufficient action by the Commission in order to obtain from Member States the annual reports in a timely manner.
- Since 2001, no Commission audits in MS to check the control system in place regarding organic production.

Conclusions and recommendations (5a/6)

Conclusion 5

- The Commission does not have sufficient information to satisfy itself that the control system for organic production in third countries recognised as equivalent continues to fulfil the regulatory requirements as long as third countries keep this status. The Court further notes that there is a significant backlog in assessing applications for equivalence from third countries. The Court recommends that:

Recommendation 5

The Commission should ensure adequate supervision of the countries included in the list of those recognised as being equivalent for organic production and carry out a timely assessment of the applications from third countries applying to be included in that list.

Conclusions and recommendations (5b/6)

What is behind conclusion 5

- Long delays by the Commission when managing specific applications.
- A risk assessment of the third countries had not been formalised.
- No standardised analysis of TC's annual reports by the Commission.
- Insufficient information contained in the Third Countries' annual reports.
- No evidence that the Member States co-reporters assigned systematically assisted the Commission to ensure appropriate supervision.
- No guidelines provided by the Commission to Member States co-reporters as regards expected content of their reports.
- No internal procedures by the Commission on how the supervision of recognised third countries should be carried out. Uncertainty about when Commission should conduct on-the-spot visits after third countries are included in the list.

Conclusions and recommendations (6a/6)

Conclusion 6

- The Court found weaknesses in the system used for granting import authorisations. The Court welcomes the simplification implicit in the Commission initiative of phasing out the import authorisations regime and recommends that:

Recommendation 6

As long as the import authorisations regime is in operation Member States should ensure its correct application. Competent authorities in Member States should reinforce the checks carried out on control bodies authorised to issue certificates of inspection.

Conclusions and recommendations (6b/6)

What is behind conclusion 6

- The EU regulations do not define on what basis the acceptance of the control body proposed by the importer that applies for an import authorisation as competent to issue certificates of inspection may be made.
- General practice: by checking if the concerned CB is accredited.
- All MS' checks rely solely on documentary checks, none of the MS visited carry out on-the-spot inspections.
- The endorsement of box 15 in the certificate is in effect a self-declaration. No checks performed to assess the reliability of this declaration.
- No information regarding import authorisations included in the annual reports sent by MS
- Unreliable and incomplete information communicated by the MS in OFIS concerning the import authorisations.
- No audits carried out by the Commission in Member States since 2001.
- In the almost 20 years of existence of this import regime the Commission has recommended (but not requested) only once the MS to withdraw import authorisations for a certain product; this recommendation was not followed by all MS.

Thank you