



**Management of Pesticide Residues
in Organic Products**
IFOAM Organics Europe Position Paper

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Context

Omnipresence of pesticides in Europe and worldwide

In Europe (and worldwide), we currently largely rely on conventional agricultural systems, in which synthetic pesticides and other agrochemical products are allowed and applied. The discussion on pesticide residues must be situated in this context. Organic production does not allow the use of synthetic pesticides, artificial fertilizers or any herbicides. However, their widespread use by the majority of farmers creates an omnipresent risk of contamination in the whole food supply chain¹. This is especially the case for crops, as the pollutants which can be easily detected from the technical point of view, such as pesticides, are well known to travel by air, ground water or being transferred by handling in the food chain or are persistent in the soil for a long time. Food production is operating in an open system, after all. Furthermore, the huge progress in terms of analytical processes and methods make the detection of residues and contaminants even more frequent than in the past. The organic movement does not underestimate the issue of residues of pesticides and the risk that non-allowed substances are used. Therefore, it is important that investigations take place to clarify if the reason of a presence is a violation of or a non-compliance with the requirements of the organic regulations. A process-based approach is the key for organic control systems here, in which taking samples and having laboratory analysis are one of the tools.

Organic operators face constant threat of contamination and limitation to their freedom of business

However organic operators also use plant protection products allowed in organic production, as this production system excludes synthetic pesticides and because of the precautionary measures taken, there is a much lower pesticide presence in organic compared to conventional². This reflects organic consumers' desire to support a food and farming system that – among many other aspects - avoids the use of synthetic pesticides. Unfortunately, not using forbidden inputs cannot guarantee in itself residue-free organic products given the current dominance in the EU of a conventional production system that employs these substances. With regard to commodity groups, not only, but all plant-based organic products are affected by the problem of residues due to spray drift or the ubiquitous contamination.

- Organic operators already have responsibility to protect their activities from these external influences by precautionary measures that are under their control, proportionate and appropriate. Nevertheless, due to ubiquitous pollution deriving from non-organic agricultural activities from the past or present, the risk of contamination, decertification and blocking of products is always present.
- In some Member States, farmers who are close to conventional neighbours and, according to control bodies, at high risk of contamination by spray drift, are prevented from being certified as organic. This is an offense to the polluter-pays principle.

Organic operators' freedom of doing business, as engrained in Article 16 of the Charter of Fundamental Rights of the European Union, needs to be guaranteed and it is not acceptable that this freedom is limited by activities of conventional neighbours. Nevertheless, the EU's Farm-to-Fork Strategy and its objectives i.e., to increase the amount of land devoted to organic farming and to reduce the synthetic pesticide application in the EU contradicts to this restrictive and discouraging approach.

¹ Mirjam Schleiffer, Bernhard Speiser: [Presence of pesticides in the environment, transition into organic food, and implications for quality assurance along the European organic food chain – A review](#), Environmental Pollution, Volume 313, 2022, 120116, ISSN 0269-7491

² EFSA (2018) "Out of 1,940 organic food samples, 6.5% (126 samples) contained quantifiable residues of one or more pesticides. For conventionally grown food, 44.5% of the 28,912 samples analysed (12,857 samples) contained quantifiable residues of one or more pesticides." ([Monitoring data on pesticide residues in food: results on organic versus conventionally produced food \(wiley.com\)](#))

It also has to be revealed in its entirety and acknowledged that stakeholders are confronted regularly with the incomprehension and the situation that residues are often unavoidable, and the sources and causes cannot be determined, even with the greatest efforts on the part of the organic companies, control bodies and control authorities.

Organic operators are not at fault for this, and unavoidable contamination in organic production must not have any influence on the organic status, because it does not represent a violation at all (neither on the level of actions nor on the level of forgone or deficient protective measures).

In order to get an overview about the real picture as soon as possible, there is an urgent need to create a fearless atmosphere where cases of positive residue findings and the results of investigations are disclosed in an open and transparent way by all stakeholders, regardless of their role – being operators, CBs/CAs, NGOs or authorities.

New Organic Regulation

With the Organic Regulation 2018/848 applicable since January 1st, 2022, new rules entered into force, also regarding the handling of pesticide residues. *Art. 28 & 29 of Regulation (EU) 2018/848* specify the measures and steps for operators as well as for control bodies and control authorities in the case of the presence of non-allowed substances on organic products. The handling of residues proved to be a controversial subject during the negotiations for this regulation. After long discussions the final legal text was reached as a compromise between The European Commission, the European Parliament and the Council of the European Union, which led to the inclusion of Art 29(4). According to *Art. 29(4)*, *By 31 December 2025, the Commission shall present a report to the European Parliament and the Council on the implementation of this Article, on the presence of products and substances not authorised pursuant to the first subparagraph of Article 9(3) for use in organic production and on the assessment of the national rules referred to in paragraph 5 of this Article. That report may be accompanied, where appropriate, by a legislative proposal for further harmonisation.* IFOAM OE sees the necessity of a position paper, to present the perspective of the organic movement on how the regulation should be implemented.

Position on the implementation of the current Regulation

Current situation/practice for operators & CBs/CAs

Since January 1st, 2022, the EU Regulation 2018/848 demands for actions concerning suspicion of non-compliance in Article 27 as well as for precautionary measures to avoid the presence of non-authorized products and substances in Article 28 and the handling of (possible) suspicions based on presence of non-authorized products and substances. These new requirements further specify the old ones of Art. 63 and Art. 91. of Regulation (EC) 889/2008. Clearly, these requirements are important to protect the integrity of organic production.

Organic operators have already invested and do invest continuously to protect themselves from substances they do not use. They do what is under their control, proportionate and appropriate to their activities (Recital 68, Art. 28(1)) to avoid the presence of residues in the organic products and take precautionary measures.

Since many years the handling of organic products contaminated with pesticides or other non-authorized substances has been highly diverse within Europe. As it is stated in the new regulation, not every presence of non-authorized substances detected by operators automatically leads to an investigation by CBs and CAs because not all of them is automatically a substantiated suspicion. An official investigation only starts if the suspicion is substantiated, or the suspicion cannot be eliminated. Then the operator is obliged to inform the CB/CA (Recital 67, Article 28. (2)(d)). In case an official investigation is launched, it depends on the substance and in parallel, a suspicion on a non-conformity and the circumstances of the specific case if the CB/CA is able to make a decision quickly. While the CB/CA aims at closing the investigation by identifying the most probable source and cause, if

this cannot be established and there is no evidence of non-compliance by the operator, the product is released (Art. 41(2)).

Operators are the first who want a robust and demanding control system to create a climate of confidence between operators and consumers, but this control system must be efficient, provide real added value in terms of detecting and eliminating all kinds of non-compliances and preventing fraud. It should be avoided that for every presence, despite not being a substantiated suspicion a heavy procedure is launched that consumes huge resources from organic operators, control bodies, control authorities and competent authorities. The key point here is that the investigation should be appropriate to the situation (level of presence, risks in supply chain & operator etc.). To focus on cases of substantiated suspicion corresponds both to the legal requirements in the organic regulation and to the risk-based approach of controls.

Principles of the management of residue findings

Procedures to be followed by the operator (Articles 27 & 28)

Before we go into the details of what happens if there is a residue finding, it is important to acknowledge that operators are first of all committed and required to take **precautionary measures** to avoid contamination in the first place (Article 28):

- measures that are proportionate and appropriate to identify and to avoid the risks of contamination of organic production and products with non-authorized products or substances,
- measures regularly reviewed and adjusted to the needs and circumstances.

It must be clear that in this context, operators do what is under their control to avoid contamination of organic products with non-allowed substances and products.

In case of an event that organic operators want to avoid, namely when the **presence of a non-allowed substance** is found, the **first step** should be the verification whether this information is correct and relevant, e.g., whether a laboratory finding is reliable and provides for relevant information on the product or lot in question. In practice, operators may rely on their own expertise but depending on the case they can also consult an association, consultant, laboratory, or control body to clarify this. If the information is verified, a suspicion of non-compliance in accordance with 28 (2) may arise.

In the case of a suspicion of non-compliance, adequate procedures must be followed by the operator as a **second step**, as it is specified in Art. 27. and 28. of Regulation (EU) 2018/848, in particular:

- identify and separate the product or lot concerned,
- check whether the suspicion can be **substantiated or eliminated**.

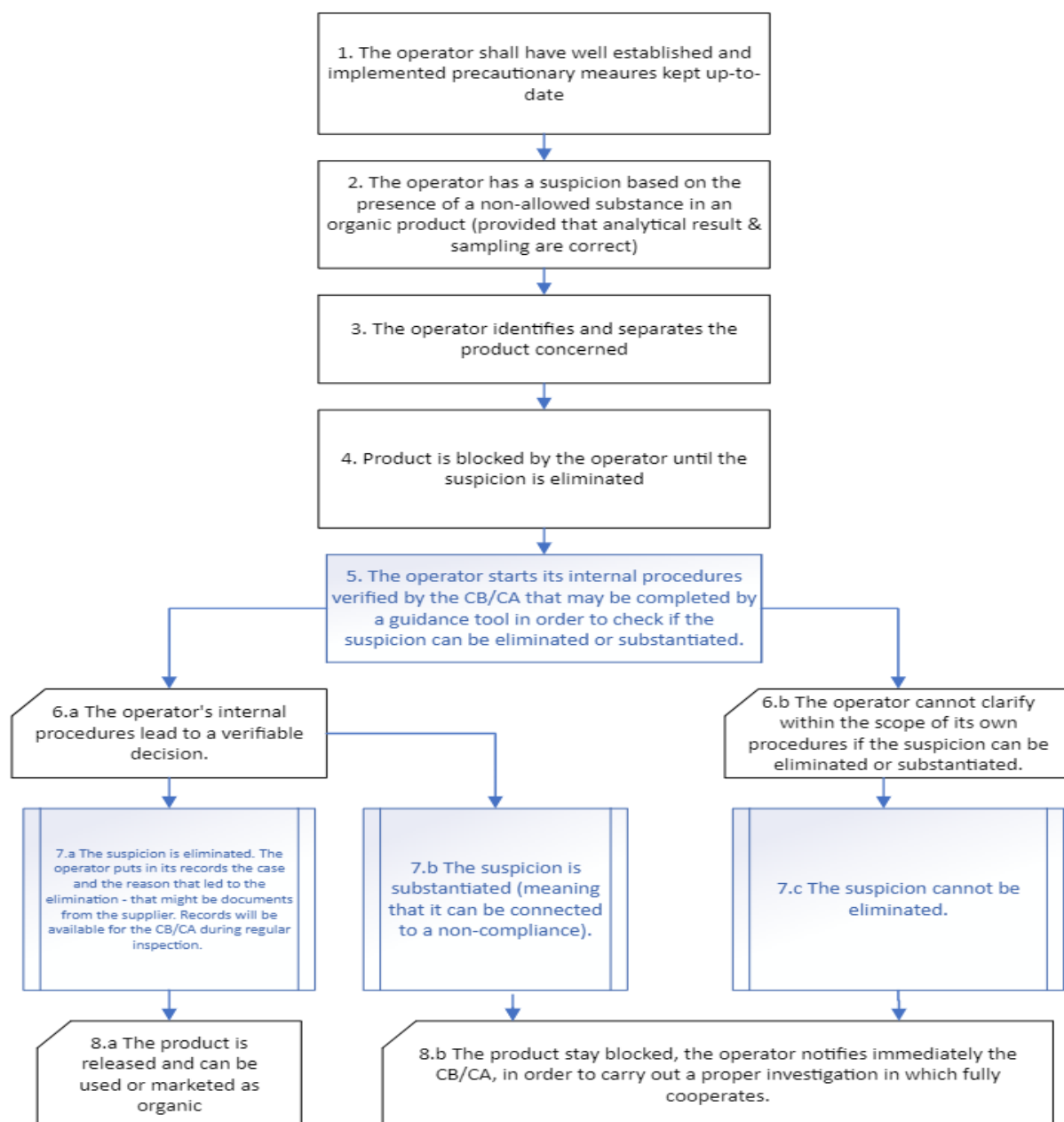
In this step, the **operator should do the first evaluation by itself** to determine whether the suspicion can be eliminated or substantiated. This room to manoeuvre is established in Article 28 (2), specifically in (b) and in the separate Implementing Regulation (EU) 2021/279 Art. 1. This possibility is essential. It also implies that not every presence of non-allowed substance leads automatically to an investigation by the CB/CA.

The operator shall notify the CB or CA only when the suspicion cannot be eliminated or is substantiated. The reasoning behind this is that operators should be given the possibility to eliminate a suspicion in typical cases of contaminations that are not related to a non-compliance, and which are well-documented based on the procedures agreed with and checked by its CB/CA. Let's recall that organic operators already invest in precautionary measures to protect themselves from substances they do not use.

This has the advantage that it saves operators valuable resources and frees up CBs/CAs which would otherwise be flooded with investigations related to omnipresent pesticides in the environment and other contaminants which are well known, but not related with a non-compliance in organic production.

Operators need some form of guidance in a self-evaluation process, due to the complexity of decision making. They are obliged to have in place internal decision strategies (quality assurance systems) agreed with and checked by the CB/CA that might be complemented by non-mandatory guidance tools. CBs and CAs should position the inspection and monitoring of this overall internal quality assurance system of the operators in the focus of their controls.

According to Art. 28 of Regulation (EU) 2018/848, the **OPERATOR** shall follow the following steps, which are completed by IFOAM OE specifications (in blue):



We propose the following principles to be applied (core demands):

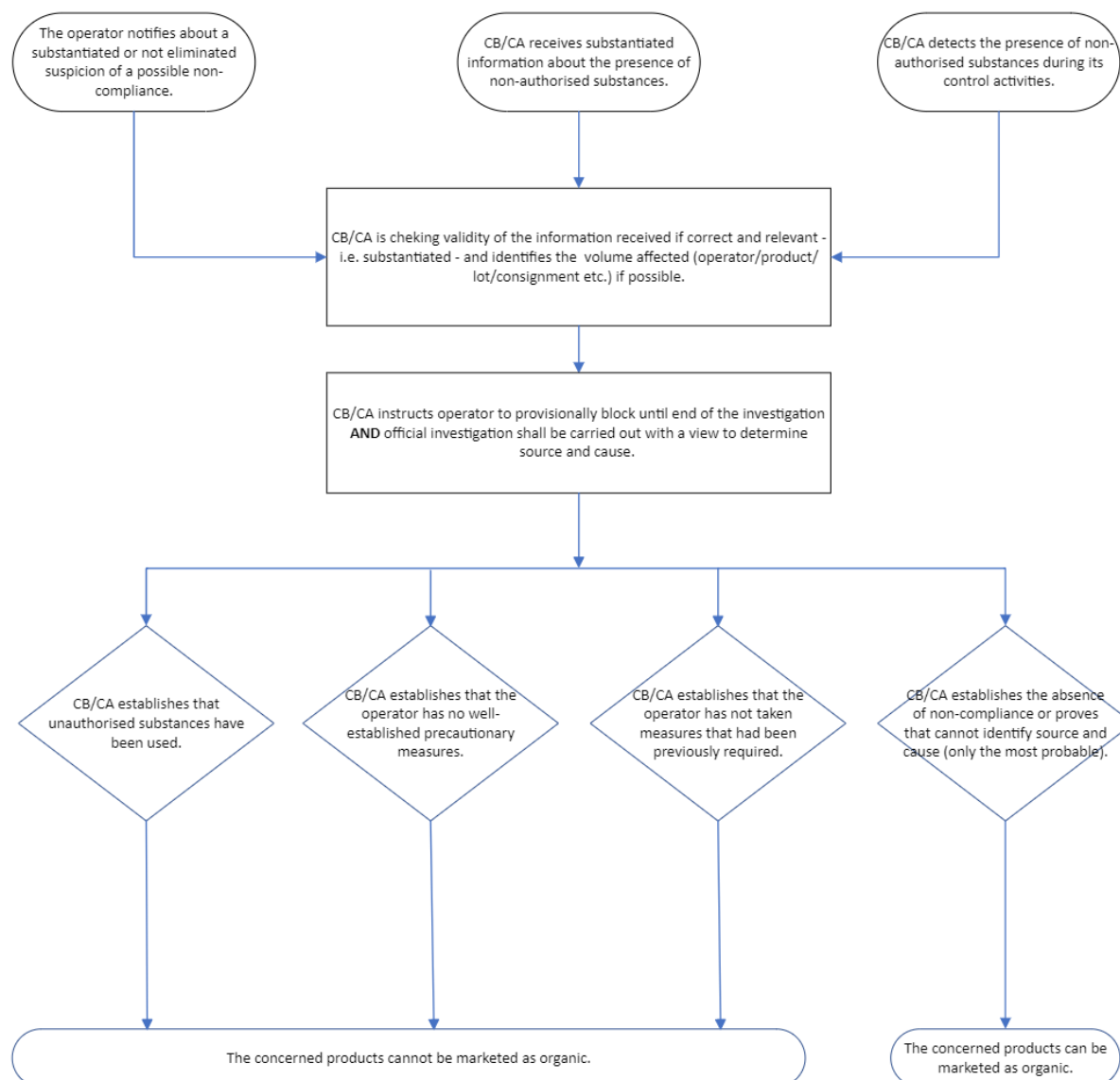
- In accordance with Art. 27. and 28 (2) of the basic regulation as well as Art. 1. of Reg, 2021/279 operators have the task to conduct their own checks before a substantiated suspicion is established.
- This internal assessment should be guided by the operator's own internal procedures verified by the CB/CA (as set in Art. 38. of Reg. 2018/848) and might be complemented by a guidance tool based on experiences with other investigations and scientific results, which is established to guide the actions of the operators and of the CBs/CAs.
- In the course of this internal assessment the operator is entitled to collect all necessary information including relevant details or documents from suppliers.
- The operator shall notify the presence to the CB/CA if there is a substantiated suspicion or if the suspicion cannot be eliminated that the product might not be in compliant with the Organic Regulation.
- In case the suspicion can be eliminated after having followed the verified procedure, including a possible consultation of the guidance tool, the operator documents the results and the reason for the conclusion – e.g., based on scientific literature - and the product can be used or marketed as organic, of course when it does not pose a human health risk. It is the task of the CB/CA to verify during the regular controls if the case is adequately documented and the suspicion has been eliminated on valid grounds.
 - o Examples of items to consider where the operators might withdraw the suspicion when the case and the circumstances are well documented:
 - the substance detected occurs naturally in the product or derives from a processing technique;
 - the substance detected is used against a disease which is not existent in the crop species in question;
 - the substance detected is not allowed in the crop species in question – considering that the authorization of a pesticide for a specific crop can vary between countries – or not allowed at all in the EU (any longer);
 - proven cases of false positive laboratory results;
 - environmental pollution deriving from POPs;
 - detection of substances that derive from human sanitary measures/products used or the treatment of water.
 - proven and well-documented cases of systematic, unavoidable contamination from neighbours' overspray, short- and long-distance spray drift.

Procedures to be followed by the CB/CA (Article 29)

In the case when the CA/CB receives substantiated information about the presence of non-authorized products or substances or has been informed by an operator in accordance with Art. 28. (2)(d) or detects non-authorized products or substances itself, it shall carry out an official investigation (Article 29. (1)(a)) with a view to:

- Determine the source and cause of the presence in order to verify compliance,
- Complete the investigation as soon as possible and within a reasonable period,
- Consider the durability of the product and complexity of the case.

With a view to and complying with all the relevant requirements set by Art. 2. of Regulation (EU) 2021/279, according to Art. 29 of Regulation (EU) 2018/848, the **Competent authority/ control authority/ control body** shall follow the following steps:



Source and cause of contaminations

When a substantiated suspicion is investigated by a CB/CA, sometimes the cause and source cannot be identified despite sound efforts. During the official investigation, products are provisionally blocked until the end of the investigation. We cannot escape the fact that blocking of a product or consignment always puts economic burden or threat to lose trust on the operator. Moreover, there is the risk that the product loses quality or perishes during blockage. Competent authorities have a huge responsibility not to cause unreasonable and avoidable damages to the operators concerned in case the final verdict is compliance or that the cause and source cannot be identified or only the most probable cause and source can be established.

According to a legal opinion from the Commission³, a non-conclusive investigation that fails to determine the source and reason for the presence of non-authorized products or substances (and other items mentioned in Article 2 of Commission Regulation 2021/279) can only be closed if competent authorities, control bodies, or control authorities demonstrate to the assessing competent authority that all possible means of investigation have been exhausted. This conclusion should be satisfactory, and it should not depend on time constraint.

³ Ref. Ares(2022)7959596 - 17/11/2022, Ref. Ares(2023)2551453 - 11/04/2023

Following principles should be applied:

- The investigation should determine the source and the cause of the presence of non-allowed products or substances, to ensure that operators comply with the requirements for organic production and have not used products or substances that are not authorised for use in organic production and to ensure that those operators have taken proportionate and appropriate precautionary measures to avoid the contamination of organic production with such products and substances (Recital 68, Art. 29(2)).
- 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 (Recital 69, Art. 29(1)).
- In case the source and cause cannot be determined conclusively, the CA/CB should be able to establish the “most probable cause and source” and thereby close the investigation.

Guidance tool

From the IFOAM OE sector project on pesticides, it was concluded that CBs/CAs would appreciate a way towards a more harmonized evaluation of residue cases. Concretely, improvements could be made on substance specific guidelines for the assessment of residue cases. These guidelines should also take into account experiences gained during investigations, scientific knowledge and knowledge on how to conclude on processing factors, if applicable. This is where a guidance tool could come into play.

The necessity of such tools is highlighted by private initiatives to guide stakeholders that have already emerged. This shows that there is a clear demand apart from other guidelines or national implementation requirements. Operators as well as CBs/CAs would greatly benefit from a new improved guidance tool to guide their actions, e.g., to determine whether a suspicion can be substantiated or not.

Such a guidance tool should fulfil the following criteria:

- Compile the most common detected residues and their origin, per crop species.
- general criteria (applicable to all the operators), e.g.
 - o latest available agronomic knowledge
 - Does analysed active substance make sense for application in the culture or food concerned, i.e., does its use make sense from an agronomic or technical point of view?
 - Are there different possible uses/purposes for the active substance?
 - What other sources of the active substance are possible?
 - o scientific studies
 - o frequency of contamination
 - o National/regional contamination characteristics in the environment
- specific criteria (applicable to specific operators), e.g.
 - o regional pedoclimatic conditions.
 - o Production-related (transport, storage, supply-chain)
 - o Known cases of fraud
- Consider processing factors, when applicable.
- Available for operators & CBs/CAs free of charge.

Preferably, the expert group for technical advice on organic production EGTOP should be consulted to ensure a smooth integration of the guidance tool in the process.