



POSITION PAPER

» AN EXCESSIVE RESPONSE TO A LIMITED PROBLEM, AT THE EXPENSE OF THE SECTOR

The Commission's long-awaited report on the implementation of Article 29 was published on 31 March. OPTA Europe regrets its complacent conclusion that the current framework is functioning well and that no changes are needed, which does not reflect operators' experience. We regret in particular the insistence on systematic investigations after any positive test, despite EFSA's recognition of multiple and unavoidable possible sources. On the other hand, we welcome limited improvements, notably on processing factors and acknowledgement that some cases do not require repeated investigation.

REALITY CHECK

We regret that the Commission maintains disproportionate legislative measures because it has not taken into account the unavoidable sources of contamination –the practical reality faced by operators, as confirmed by EFSA.

EVIDENCE

“Most of the quantified substances often present in samples flagged as organic, are either because they are authorised for use (e.g. copper compounds), they occur naturally (e.g. bromide ion), they occur as degradation product of a sanitisation process (e.g. chlorate; EFSA, 2023e) or are environmental contaminants (e.g. mercury (RD)).”

The 2023 European Union report on pesticide residues in food

vs.

POLICY

“The Organic Regulation lays down rules for handling cases where substantiated information (typically the result of laboratory tests) indicates the presence of substances not authorised for use in organic production. In such cases, an official investigation must be opened immediately to identify the source and cause of the presence of the substance non authorised for use in organic production with the view to ensure the integrity of the products.”

Report from the Commission on the Implementation of Art 29

OUR VIEWS ON THE REPORT

- −** The Commission’s overall approach to traces of non-authorized substances misses a key principle: organic certification is primarily a process claim because it verifies how a product was produced, rather than what is in it.
- −** The Commission draws policy conclusions on a basis that is not robust.

 - The reports submitted by Member States rely on an OFIS reporting template that ignores the possibility of technically unavoidable contamination and therefore introduce bias into the findings.
 - Consequently, the scope of the study commissioned to EFSA on 21 substances -based on OFIS findings- is too restricted and fails to cover the most frequently found substances in organics (e.g. bromide, chlorate).
- −** The report contains fundamental contradictions and does not bring any clarity around the notion of “substantiated information”.

The report recognizes the complexity of assessing residue findings, yet the conclusion ultimately follows a logic that treats the mere presence of traces as sufficient to trigger regulatory action. As a result, the necessary interpretation and contextualization of the findings are not consistently reflected.
- −** The report shows that unharmonized implementation by Member States remains the norm.

The report shows that the application of Article 29 differs considerably across Member States, which is detrimental to companies operating across multiple Member States. These divergences stem directly from the lack of clear definitions and guidance for key terms within the Regulation.
- −** The reported duration of official investigation does not reflect actual practice

The durations of official investigations in the Commission’s report are significantly shorter than what operators typically experience. The report mainly capture administrative processing times rather than the full period from the initial notification to the final resolution of a case. In addition, the report does not account for the frequent occurrence of successive OFIS cases across different Member States arising from the same finding.
- +** The report acknowledges that some cases do not require repeated investigation.

It is acknowledged that in cases where previous investigations concluded that repeated identical contaminations were unrelated to an active use, and if the operator took the precautionary measures to avoid such contamination, additional investigations may not be needed for future occurrences.
- +** The report confirms that processing factors can be used to adjust laboratory results for processed products, although it also notes that their application is not consistent.



FOLLOW-UP RECOMMENDATIONS

1 | Get the facts right!

Revise the OFIS reporting template to ensure it comprehensively captures all potential sources and causes –including those that are technically unavoidable–in alignment with EFSA evidence.

2 | Give operators, certifiers, and competent authorities clearer guidance on how to consistently address the presence of low-level residues, including:

- » A differentiated approach for processed products that requires the mandatory application of EU-harmonized processing factors to determine ‘presence’:
 - Primarily, based on EFSA’s list of PFs for pesticide/commodity/process combinations.
 - For combinations not covered by EFSA, apply the PFs established by the relevant industries. By way of example:
 - EU Oil & Proteinmeal Industry (FEDIOL) available [here](#).
 - The European Herb Growers Association (EUROPAM) available [here](#).
 - European Spice Association (ESA) available [here](#).
 - Bundesverband Naturkost und Naturwaren e.V. U (BNN) available [here](#).
 - Tea and Herbal Infusions Europe Association (THEA) available [here](#).
- » Explicit recognition that operations should not receive noncompliances solely due to technically unavoidable contamination when appropriate prevention measures are in place.
- » Explicit recognition that further investigations are not required after repeated identical contaminations that are not due to intentional active use.

3 | Foster open, continuous dialogue and exchange with stakeholders to ensure that policy decisions are grounded in practical knowledge and technical experience.

ABOUT OPTA EUROPE

OPTA Europe is the membership organization representing the interest of European organic processing and trade companies. OPTA Europe’s members play an essential role in an efficient organic supply chain.