



# **Wageningen MSc Thesis**

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Classification of non-compliances in the organic certification system of the EU  
regarding imported products

An analysis of audit reports from the European Commission and the new  
organic Regulation (EU) 2018/848

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LAW-80436; 36 ECTS

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# **Classification of non-compliances in the organic certification system of the EU regarding imported products**

An analysis of audit reports from the European Commission and the new organic Regulation (EU) 2018/848

Selina Busch\*

## **Abstract**

This thesis's focus is on organic products imported from third countries, which are certified via private control bodies recognized by the European Commission (EC). To ensure compliance with the production rules and the correct application of control activities, the EC conducted audits to evaluate the control systems' reliability established by recognised control bodies in third countries. This master thesis pursues a quantitative approach to the empirical analysis of the EC's audit reports from the years 2012 – 2020. A taxonomy was established to create four categories of non-compliances, allocating the non-compliances according to their severity and their nature. The changes introduced with the new Regulation (EU) 2018/848 establishing a new basic regulation for organic products and coming into force at the beginning of 2022 were analysed regarding whether problems identified during the analysis were resolved. Findings from the audit reports analysis include that relatively more non-compliances related to procedural aspects were identified for equivalent third countries. In general huge differences between control bodies were shown. Not all problems were addressed and solved with the new regulation, as the effectiveness of the third-party certification system's supervision is still questionable.

*Keywords: organic certification, third countries, Regulation (EU) 2018/848, non-compliances*

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## **List of Abbreviations**

CA – Competent authority

CB – Control body

CJEU – Court of Justice of the European Union

CoI – Certificate of Inspection

DG SANTE – Directorate-General for Health and Food Safety

DG AGRI – Directorate-General for Agriculture and Rural Development

EC – European Commission

EU – European Union

FVO – Food and Veterinary Office

HQ – Headquarters

ICS – Internal control system

No. – Number

PG – Producer group

PPP – Plant protection product

TPC – Third-party certification

TRACES – Trade Control and Expert System

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## 1. Introduction

This thesis is about the certification system's reliability for the importation of organic food into the European Union (EU) from third countries. More than 80% of the imported organic products are certified by recognised private control bodies, while the other 20% are imported from equivalent third countries.<sup>1</sup> This thesis focuses on the former, where organic products are certified via private control bodies recognized by the European Commission. To ensure that all organic products entering the EU comply with the organic standards enforced in the internal market, the European Commission (EC) conducts audits to evaluate the control systems' reliability established by recognised control bodies in third countries.

In the European Court of Auditors' report in 2019, some weaknesses in the certification system were identified.<sup>2</sup> One example is a low frequency of audits performed by the Commission. Furthermore, the audit reports revealed several shortcomings in the documentation, traceability, or labelling requirements. As the report in 2019 from the European Court of Auditors only states general problems in the certification system for imported organic products, the purpose of this master thesis is to pursue a quantitative approach to the empirical analysis of the audit reports issued by the European Commission to identify specific non-compliance categories and to give policy recommendations to optimize the compliance of organic imports.

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<sup>1</sup> European Court of Auditors, 'The control system for organic products has improved, but some challenges remain' (2019) 4

<[https://www.eca.europa.eu/Lists/ECADocuments/SR19\\_04/SR\\_organic-food\\_EN.pdf](https://www.eca.europa.eu/Lists/ECADocuments/SR19_04/SR_organic-food_EN.pdf)>  
accessed 12 July 2020

<sup>2</sup> *ibid*

### 1.1. The growing market for organic foods

The global market for organic food products is growing, with North America as the largest consumption market, followed by Europe.<sup>3</sup> Consumption of organic products is increasing more than agricultural areas used to cultivate organic products in the European Union (EU), so imports are required to cover the demand; the discrepancy between the cultivated area in the EU and the retail sales is shown in figure 1.<sup>4</sup>

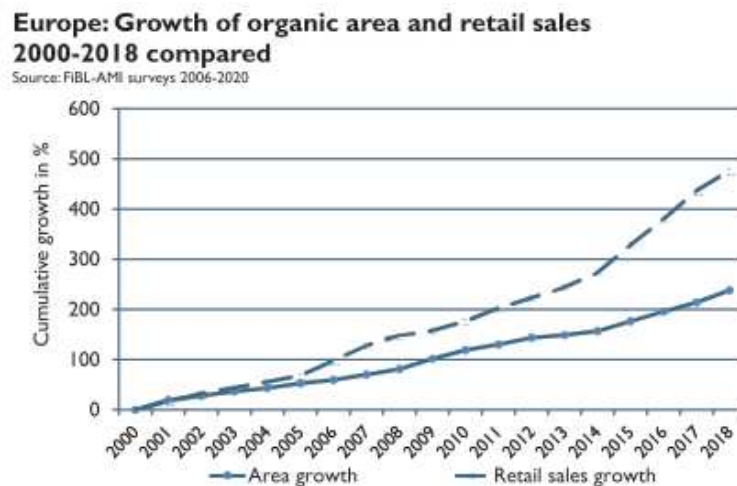


Figure 1: Growth of organic farmland and retail sales compared in Europe and the European Union, 2000-2018.<sup>5</sup>

Imports of organic products to the EU come from a wide variety of countries, in total 115.<sup>6</sup> About 15 % of the total organic food products consumed in France in 2017 were imported from third countries.<sup>7</sup> In 2018, 3.3 million tonnes were imported to the EU.<sup>8</sup> The most prominent exporter of organic agriculture and food products in China, with a market share of 12.7 %. Following a share of each 8 % of the import volume of the EU are Ecuador, the Dominican Republic, Ukraine, and Turkey, as displayed in figure 2.<sup>9</sup>

<sup>3</sup> Sahota A. 'The Global Market for Organic Food & Drink' in H. Willer and others (eds), *The World of Organic Agriculture Statistics and Emerging Trends 2020* (2020)

<sup>4</sup> Willer H. et al. 'Organic in Europe: Recent Developments' in H. Willer and others (eds), *The World of Organic Agriculture Statistics and Emerging Trends 2020* (2020)

<sup>5</sup> ibid

<sup>6</sup> European Commission, 'EU imports of organic agri-food products: Key developments in 2019' (2020) 17 EU Agricultural Market Briefs

<sup>7</sup> European Court of Auditors (n 1)

<sup>8</sup> European Commission, 'Organic farming in the EU: A fast growing sector' (2019) 13 EU Agricultural Market Briefs

<sup>9</sup> Panichi E. 'Organic imports in the European Union 2018 - A first analysis' in H. Willer and others (eds), *The World of Organic Agriculture Statistics and Emerging Trends 2020* (2020)

**European Union: Distribution of organic agri-food imports by country 2018**

(based on organic import volume in MT)

Source: Traces/European Commission

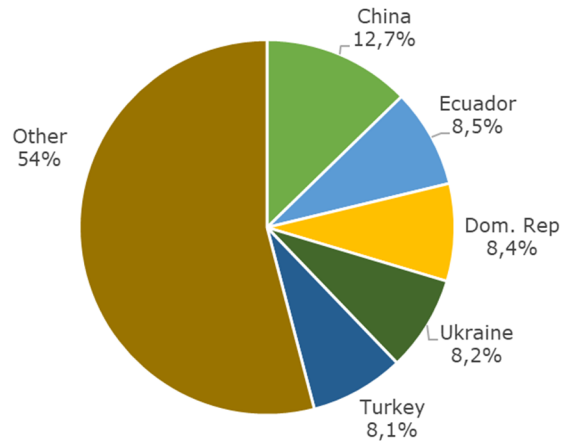


Figure 2: Distribution of organic agri-food imports to the EU by third country. <sup>10</sup>

Mostly tropical fruits, nuts, and spices are imported to the EU with a share of 24 % in the year 2018 (figure 3). <sup>11</sup> The Dominican Republic and Ecuador solely export tropical fruit, nuts, and spices to the EU. <sup>12</sup> China mainly exports oilcake and oilseeds and the Ukraine cereals (42.8 %) and wheat (28.5 %). <sup>13,14</sup> Turkey, on the other hand, exports diverse product categories, including wheat and other cereals, oilseeds, fruit, and vegetables. <sup>15</sup>

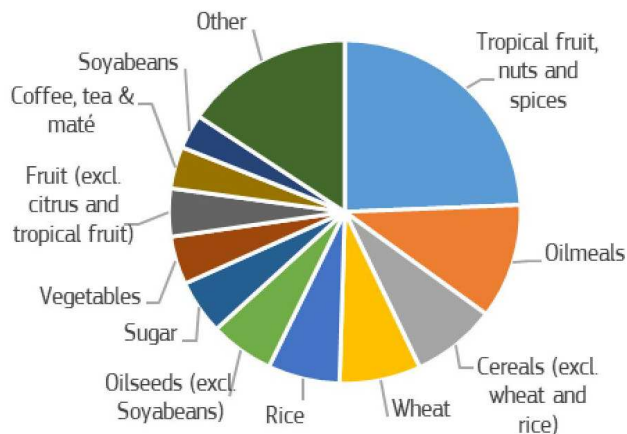


Figure 3: EU organic imports with a share in volume (t) based on data from DG AGRI for the year 2018. <sup>16</sup>

<sup>10</sup> ibid

<sup>11</sup> ibid

<sup>12</sup> ibid

<sup>13</sup> ibid

<sup>14</sup> European Commission, 'Organic farming in the EU' (n 8)

<sup>15</sup> ibid

<sup>16</sup> ibid

The increasing demand for organic products can be explained by the changes in consumer preferences towards sustainable products. Studies showed that environmental-friendly production is an essential factor for consumer choices.<sup>17,18</sup> Especially young consumers are more concerned about the sustainability of the products they purchase, leading to a further increase in demand for organic food products in the future.<sup>19</sup>

### 1.2. Private certification in the organic sector and supervision

To ensure that agro-products produced in third-countries comply with EU standards, the EU recognises several private control bodies as legal entities entitled to inspect and certify organic producers. In general, third-party certification starts with an accredited certification body inspecting organic producers according to an organic standard, as displayed in figure 4. The producers are then certified and can use the organic logo on their products, so the food industry and consumers can recognise organic products.

Certification bodies are private entities exercising public functions of ensuring compliance with organic standards. If so, their activities need to be supervised to reduce the risk of negligence in inspections or fraud. For instance, organic product producers usually pay the certification bodies for the inspections, which might create a conflict of interest for the auditors.<sup>20</sup> Therefore, there is a need to supervise the certification process to avoid issuing certificates for money without a thorough investigation of producers of organic products. This oversight of certification bodies is usually conducted by (i) an official competent authority and (ii) national accreditation bodies, as shown in figure 4. Every Member State has a designated official competent authority responsible for the supervision of certification bodies, for example, the Federal Ministry of Food and Agriculture in Germany or the Ministry of Agriculture,

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<sup>17</sup> Lee H.-J. and Yun Z.-S. 'Consumers' perceptions of organic food attributes and cognitive and affective attitudes as determinants of their purchase intentions toward organic food' (2015) 39 Food Quality and Preference 259

<sup>18</sup> Joshi Y. and Rahman Z. 'Factors Affecting Green Purchase Behaviour and Future Research Directions' (2015) 3(1-2) International Strategic Management Review 128

<sup>19</sup> Azzurra A. Massimiliano A. and Angela M. 'Measuring sustainable food consumption: A case study on organic food' (2019) 17 Sustainable Production and Consumption 95

<sup>20</sup> Lytton T. D. and McAllister L. K. 'Oversight in private food safety auditing: Addressing auditor conflict of interest' (2014) 2014(2) Wisconsin Law Review 289

Nature and Food Quality in the Netherlands.<sup>21</sup> Furthermore, each Member State has a national accreditation body that evaluates certification and inspection bodies, testing methods, medical and calibration laboratories, and validation and verification bodies.

22

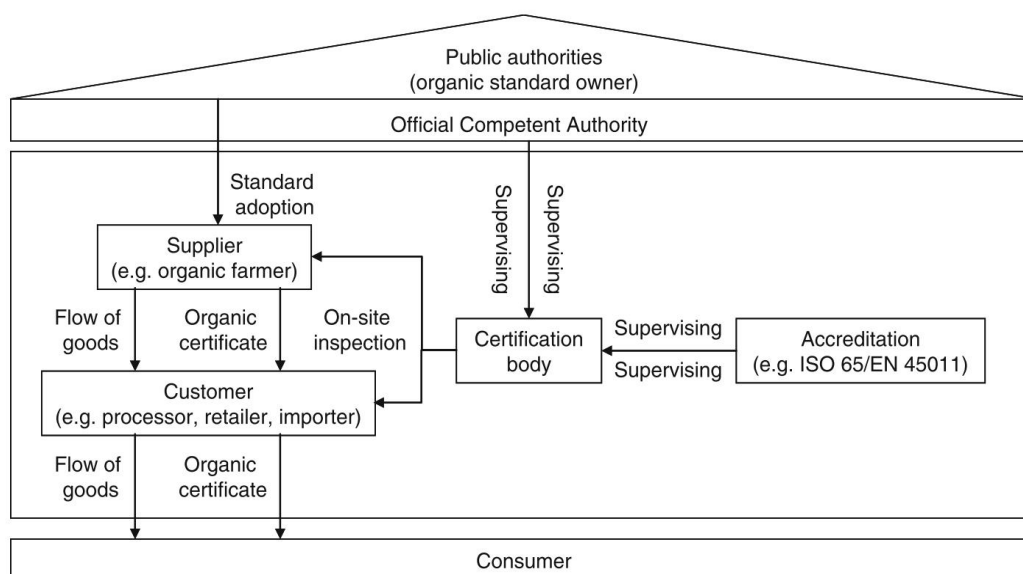


Figure 4: General structure of organic certification.<sup>23</sup>

Certification bodies operating in the field of organic products are expanding both geographically and their scope of certification beyond organic production. One example is Ecocert, which started as a small certification body for organic products in France and is now operating in over 80 countries to certify other standards like IFS Food or GLOBALG.A.P.<sup>24</sup> Not only certification bodies expanded their market presence in third countries, but also accreditation bodies like the German national accreditation body (DAKKS) started to accredit certification bodies like Biolatina operating in Peru, Argencert (Argentina), COAE and ECOA (Egypt), CertiMex (Mexico), and Indocert (India).<sup>25</sup> The external effects of the European standards of organics on third countries

<sup>21</sup> FiBL, 'Organic export info' (1 September 2017)

<<https://www.organicexport.info/about.html>> accessed 18 February 2021

<sup>22</sup> European co-operation for Accreditation, 'Who we are' (21 January 2021)

<<https://european-accreditation.org/about-ea/who-are-we/>>

<sup>23</sup> Padilla Bravo C. et al. 'Assessing the impact of unannounced audits on the effectiveness and reliability of organic certification' (2013) 3(2) Org Agr 95, 98

<sup>24</sup> Fouilleux E. and Loconto A. 'Voluntary standards, certification, and accreditation in the global organic agriculture field: a tripartite model of techno-politics' (2017) 34(1) Agric Hum Values 1

<sup>25</sup> ibid

occur via accreditation and certification bodies, a phenomenon coined as the 'Brussels effect' by Bradford.<sup>26</sup>

Delegating public control activities to private certification bodies poses a question regarding third-party certification (TPC) reliability. Zorn et al. (2012)<sup>27</sup> found several differences in private certification bodies in Germany, which results in a lack of overall monitoring quality of organic products. Additionally, Albersmeier et al. (2009) analysed data from a German meat industry initiative for third-party certification audit quality. The empirical data showed: "that the validity and reliability of audits is not guaranteed, and, hence, it is doubtful whether TPC actually achieves its stated goals".<sup>28</sup> An example of a consequence of lacking control over certification bodies can be found in the PIP breast implant case C-219/15<sup>29</sup> of the Court of Justice of the European Union (CJEU). A notified certification body, TÜV Rheinland, certified defective breast implants, which is why several women suffered damages.<sup>30</sup> According to van Leeuwen, higher standards for certification bodies' accreditation should be applied by the Member states.<sup>31</sup>

Recently, the CJEU was addressed about the reliability of the organic certification system in third countries in the case T-565/18.<sup>32</sup> *P. Krücken Organic GmbH v Commission* deals with the question of whether the Commission is fulfilling its control obligations in the organic certification system in the EU. *P. Krücken Organic GmbH* imported contaminated organic products by pesticides from China. The organic importer claims that the European Commission did not fulfil their obligation to control the private certification body Ecocert SA operating in China, according to Art. 33 (3) of the Commission Regulation, which certified the contaminated product as organic. The CJEU dismissed the infringement procedure against the Commission due to a lack

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<sup>26</sup> Bradford A. 'The Brussels effect' (2012) 107(1) *Northwestern University Law Review* 1

<sup>27</sup> Zorn A. Lippert C. and Dabbert S. 'Supervising a system of approved private control bodies for certification: The case of organic farming in Germany' (2012) 25(2) *Food Control* 525

<sup>28</sup> Albersmeier F. et al. 'The reliability of third-party certification in the food chain: From checklists to risk-oriented auditing' (2009) 20(10) *Food Control* 927

<sup>29</sup> *Elisabeth Schmitt v TÜV Rheinland LGA Products GmbH* (C-219/15), ECLI:EU:C:2017:128

<sup>30</sup> Verbruggen P. and van Leeuwen B. 'The liability of notified bodies under the EU's new approach: The implications of the PIP breast implants case (C-219/15)' (2018) 43(3) *European Law Review* 394

<sup>31</sup> van Leeuwen B. 'PIP Breast Implants, the EU's New Approach for Goods and Market Surveillance by Notified Bodies' (2014) 5(3) *Eur j risk regul* 338

<sup>32</sup> *P. Krücken Organic GmbH v Commission* [2020] T-565/18, [2020] (First Chamber European Court of Justice)

of causal relation between the damages suffered and the Commission's control activities. Even though the judgment concluded that the Commission could not be held liable, the case exposed the control system's fragility.



### 1.3. Contribution to the field

In the literature, the focus of organic certification relied on how inspections by control bodies could be improved. Including the positive impact of unannounced audits, appropriate timing of inspections, previous non-compliances and skilled inspectors.

<sup>33,34,35</sup> Another aspect that has been analysed in the literature is third-party certification effectivity and auditing in the organic sector. A deficiency in the enforcement by third-party certifiers has been identified. <sup>36</sup> Albersmeier et al. (2009) found variations between different control bodies and auditors, resulting in a lack of validity and reliability of audits. <sup>37,38</sup>

Furthermore, the competition between control bodies (CBs) has been identified as possibly jeopardising the control system as a whole. <sup>39,40,41,42</sup> Another aspect of third-party certification, the conflict of interest, has been addressed by Lytton and McAllister (2014). <sup>43</sup> The certification is seen as an obligation rather than an intrinsically motivated quality management system, leading to suppliers choosing the low-priced third-party audit. <sup>44,45,46</sup> Control bodies might reduce their costs by doing less strict controls or not investing in staff training. <sup>47</sup> As stated by Zezza et al. (2020) and Albersmeier et al. (2009): “the central task of the certification process—the reduction of information asymmetry—can be fulfilled only if the institutions in charge

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<sup>33</sup> Padilla Bravo et al. (n 23)

<sup>34</sup> Gambelli, Solfanelli and Zanolì, *Can the inspection procedures in organic certification be improved? Evidence from a case study in Italy* (n 34)

<sup>35</sup> Zanolì R. Gambelli D. and Solfanelli F. ‘Assessing risk factors in the organic control system: evidence from inspection data in Italy’ (2014) 34(12) *Risk analysis : an official publication of the Society for Risk Analysis* 2174

<sup>36</sup> Fagotto E. ‘Private roles in food safety provision: the law and economics of private food safety’ (2014) 37(1) *Eur J Law Econ* 83

<sup>37</sup> Albersmeier et al. (n 28)

<sup>38</sup> Zezza A. et al. ‘Supervising third-party control bodies for certification: the case of organic farming in Italy’ (2020) 8(1) *Agric Econ* 927

<sup>39</sup> European Association of Agricultural Economists (ed), ‘Objectiveness in the Market for Third-Party Certification: Does market structure matter?’ (2007)

<sup>40</sup> De S. and Nabar P. ‘Economic implications of imperfect quality certification’ (1991) 37 *Economics Letters* 333

<sup>41</sup> Jahn G. Schramm M. and Spiller A. ‘The Reliability of Certification: Quality Labels as a Consumer Policy Tool’ (2005) 28(1) *Consumer Policy* 53

<sup>42</sup> Zorn, Lippert and Dabbert, ‘Supervising a system of approved private control bodies for certification: The case of organic farming in Germany’ (n 27)

<sup>43</sup> Lytton and McAllister (n 20)

<sup>44</sup> Albersmeier et al. (n 28)

<sup>45</sup> Lytton and McAllister (n 20)

<sup>46</sup> Zezza et al. (n 38)

<sup>47</sup> *ibid*

succeed in assuring a high quality of control".<sup>48</sup> Therefore, this thesis's focus lies on the audits performed by the European Commission as part of their supervision of control bodies.

In the European Court of Auditors' report in 2019, some weaknesses in the organic certification system were identified.<sup>49</sup> One example is a low frequency of audits performed by the Commission. Furthermore, the audit reports revealed several shortcomings in the documentation, traceability, or labelling requirements. As the report in 2019 from the European Court of Auditors only states general problems in the certification system for imported organic products, the purpose of this master thesis is to pursue a quantitative approach to the empirical analysis of the audit reports issued by the European Commission to identify specific non-compliance categories and to give policy recommendations to optimise the compliance of organic imports.

This thesis establishes a categorisation for non-compliances, differentiating them according to the severity and certification process area where the non-compliance occurred. The empirical data from the European Commission's audit reports will be quantitatively analysed regarding the country and year of the non-compliance to show trends possibly. The findings are used to analyse whether the problems are reflected in Regulation (EU) 2018/848 and where areas of focus for further legislation could be.

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<sup>48</sup> *ibid*, p. 2

<sup>49</sup> European Court of Auditors (n 1)

#### 1.4. Research question

The purpose of this master thesis is to pursue a quantitative approach to the empirical analysis of the audit reports issued by the European Commission to identify specific infringement categories and to give policy recommendations to optimise the compliance of organic imports. The following research question and sub-questions for each part will be used to analyse the certification system's reliability for organic products imported from third countries.

##### Main research question:

What are the specific non-compliances committed by certification bodies in charge of the third-party certification for organic products imported to the EU? Could the identification of non-compliance categories uphold recommendations to optimize the compliance of organic imports?

##### First part:

- What encompasses the legal framework for organic certification?

##### Second part:

- How often are certification bodies inspected in the form of official controls by the European Commission? On which factors depends this frequency?
- What happens in cases of non-compliance?
- What was the basis of the identified non-compliances?
- What was the remedy introduced by the Commission?
- Was there a change of non-compliances over the years?
- Was there a path of non-compliance, according to third-country?

##### Third part:

- What are possible policy recommendations to tackle shortcomings identified?
  - Where are weaknesses/loop-holes in the legislation that facilitate non-compliances?
- Is the new organic Regulation (EU) 2018/848 addressing the issues of non-compliance identified in the Commission's audit reports?
- What are possible strategies for food companies to deal with non-compliant products?
  - Are there specific areas of focus?

### 1.5. Methodology suitable to answer the research questions

The first part of this thesis will give an overview of organic certification's legislative framework in third countries. Therefore, the Council Regulation (EC) 834/2007 on organic production standards, labelling of organic products,<sup>50</sup> and its implementing act, the Council Regulation (EC) 889/2008 with regards to organic production, labelling, and control will be analysed.<sup>51</sup> Requirements for Organic imports from third countries are further regulated by Commission Regulation (EC) 1235/2008, which will also be described.<sup>52</sup>

To answer the research question, the second part of the thesis categorises and quantitatively analyses non-compliances stated in the audit reports from the European Commission. The empirical data from the audit reports will be used to classify non-compliances with a fourfold taxonomy, establishing different categories of non-compliances. Each category of non-compliance will be qualitatively described, showing the nature of each category. The four categories generated with this approach will be analysed concerning the time frame of the data from the reports and the different countries to detect trends.

The third part of the thesis concerns a normative analysis of the changes introduced by the upcoming new organic regulation regarding the certification of imported organic products from third countries. The focus lies mainly on chapters V - VII about certification, official controls, and trade with third countries from Regulation (EU) 2018/848.<sup>53</sup> The results from the previous chapter will be analysed with regard to the identified changes. Possible policy recommendations and strategies for food businesses will be given.

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<sup>50</sup> Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91.

<sup>51</sup> Council Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control 7 January 2020. consolidated version, Regulation (EC) 889/2008

<sup>52</sup> Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries 3 February 2020. consolidated Version, Regulation (EC) 1235/2008

<sup>53</sup> Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 14 November 2020. Consolidated version

## **2. Description of the legal framework on organic certification in the EU**

### **2.1. General framework until 1<sup>st</sup> January 2022**

Since 2007, all audits have been conducted under the general legal framework for organic agri-food products consisting of the Council Regulation (EC) 834/2007 on organic production standards, labelling of organic products,<sup>54</sup> and its implementing act, the Council Regulation (EC) 889/2008 with regards to organic production, labelling, and control.<sup>55</sup> The new organic regulation of the European Parliament and the Council, Regulation (EU) 2018/848 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007, will be in force from 1<sup>st</sup> January 2022 onwards.<sup>56</sup>

Additionally, specific regulations concerning different product categories, such as organic wine<sup>57</sup> or aquaculture.<sup>58</sup> For organic products produced within the internal market, Member States can decide whether the controls are performed by designated official authorities or private control bodies (figure 2).<sup>59,60</sup> Organic imports from third countries need to comply with EU requirements to be marketed as organic within the EU.<sup>61</sup> Commission Regulation (EC) 1235/2008 lays down detailed rules for implementation of Council Regulation (EC) 834/2007 as regards the arrangements for imports of organic products from third countries (thereon, the Commission

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<sup>54</sup> Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91.

<sup>55</sup> Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control.

<sup>56</sup> Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 14 June 2018. Consolidated Version, Regulation (EU) 2018/848

<sup>57</sup> Commission Implementing Regulation (EU) No 203/2012 of 8 March 2012 amending Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007, as regards detailed rules on organic wine 2012, Commission Implementing Regulation (EU) No 203/2012

<sup>58</sup> Commission Implementing Regulation (EU) No 1358/2014 of 18 December 2014 amending Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 as regards the origin of organic aquaculture animals, aquaculture husbandry practices, feed for organic aquaculture animals and products and substances allowed for use in organic aquaculture 2014

<sup>59</sup> L. M Jespersen, 'Organic certification in selected European countries: Control fees and size of the sector' (7 February 2011). CERTCOST Deliverable 8

<sup>60</sup> Article 27 (1)(4) Council Regulation (EC) 834/2007

<sup>61</sup> Article 32 (1) Commission Regulation (EC) 1235/2008

Regulation).<sup>62</sup>

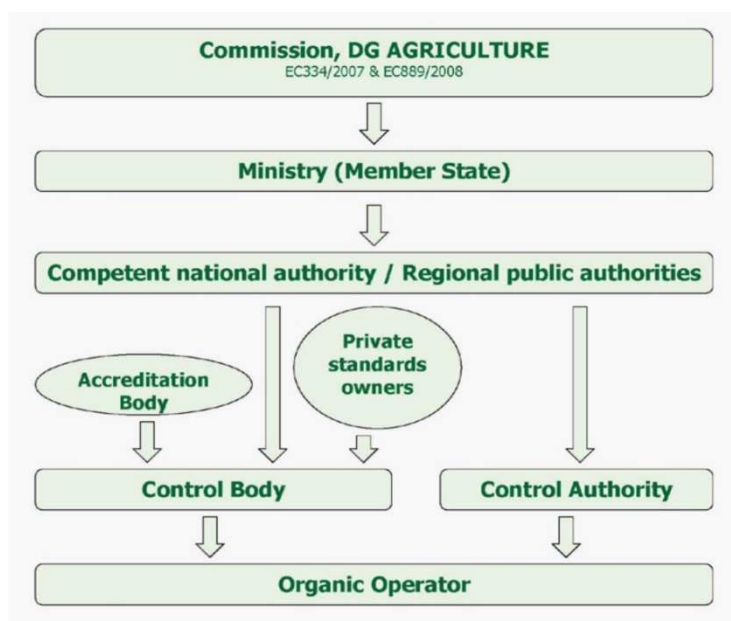


Figure 5: Overview of the organic certification system in the EU internal market.<sup>63</sup>

According to the Commission Regulation, there are two ways by which the EU recognises organic products imported from third countries as such. Firstly, the EU can mutually recognise that a third country's production and control systems are compatible with the EU. The so-called equivalent third countries with their organic control system mutually recognised are listed in Annex III of the Commission Regulation.<sup>64</sup> These are Argentina, Australia, Canada, Chile, Costa Rica, India, Israel, Japan, Tunisia, the Republic of Korea, New Zealand, Switzerland, and the United States of America. For those countries not listed in Annex III, their organic products must be certified by private control bodies or national control authorities, which the European Commission recognises.<sup>65</sup> The recognised control bodies or control authorities are then listed in Annex IV of the Commission Regulation. The Commission Implementing Regulation (EU) 2016/1842 improves the traceability of consignments of organic products. It requires certificates of inspection to be submitted to the electronic Trade Control and Expert System (TRACES) established by Commission

<sup>62</sup> Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries (n 52)

<sup>63</sup> Jespersen (n 59)

<sup>64</sup> Article 7 of Commission Regulation (EC) No 1235/2008

<sup>65</sup> Article 10 of Commission Regulation (EC) No 1235/2008

Decision 2003/24/EC.<sup>66,67</sup> This management tool processes trade certificates by centralising all data and making them available to competent authorities in the Member States.<sup>68</sup>

## 2.2. Control activities of the European Commission

In the control system for recognised control bodies in third countries, the Commission first examines requests from certification bodies for inclusion in the list in Annex IV of Regulation (EC) 1235/2008. The Committee on organic production<sup>69</sup> consists of governmental and private experts and assists the Commission with examining requests and with the management of the list of recognised control bodies.<sup>70</sup> Every request is examined in consultation with two Member States, acting as co-reporter.<sup>71</sup> The Commission then decides whether a control body will be included in the list and assign a code number to the recognised bodies.<sup>72</sup>

The Commission has an obligation to ensure appropriate supervision of recognised control bodies by regularly reviewing their recognition, based on assessing the risk of the occurrence of irregularities or infringements of the organic production rules set out in Regulation (EC) No 834/2007.<sup>73</sup> Based on this risk assessment, specific certification bodies are selected for additional audits, which will be analysed during this thesis. In the case of non-compliances affecting the organic status, control bodies and the Member States shall communicate with each other immediately and inform the Commission in severe cases.<sup>74</sup>

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<sup>66</sup> Article 1 (6) of Regulation (EU) No 2016/1842 amending Article 13 of Regulation (EC) No 1235/2008

<sup>67</sup> Commission Implementing Regulation (EU) 2016/1842 - of 14 October 2016 - amending Regulation (EC) No 1235/2008 as regards the electronic certificate of inspection for imported organic products and certain other elements, and Regulation (EC) No 889/2008 as regards the requirements for preserved or processed organic products and the transmission of information 14 October 2016, Regulation (EU) 2016/1842

<sup>68</sup> Panichi (n 9)

<sup>69</sup> Article 37 (1) of Regulation (EC) No 834/2007

<sup>70</sup> Article 16 (1) of Regulation (EC) No 1235/2008

<sup>71</sup> Article 16 (2) of Regulation (EC) No 1235/2008

<sup>72</sup> Article 16 (3) of Regulation (EC) No 1235/2008 in accordance with the procedure in Article 37 (2) of Regulation (EC) No 834/2007

<sup>73</sup> Article 32 (2) of Regulation (EC) No 834/2007

<sup>74</sup> Article 30 (2) of Regulation (EC) No 834/2007

When control bodies fail to take appropriate action on time after a Commission request, the Commission shall withdraw the control body from the list without delay.<sup>75</sup> Article 5 (2) of Regulation (EC) No 1235/2008 gives the Commission the competence to withdraw control bodies from the list of recognised control bodies in the case that control bodies/authorities fail to comply with the requirements set out. The Commission determines according to the severity of the non-compliances whether to withdraw the control body/authority from the list following the procedure referred to in Article 37 (2) of Regulation (EC) No 834/2007.

### 2.3. Specific obligations of control authorities and control bodies

Competent authorities of Member States delegate their control activities to control authorities, which are public administrative organisations with the competence for inspection and certification as defined in Article 2 (o) of Regulation (EC) 834/2007. The same applies to equivalent third countries. In other third countries, usually, control bodies are responsible for the inspection and certification of organic producers. As defined by Regulation (EC) 834/2007, a control body is an independent private third party.<sup>76</sup>

Control authorities can further delegate their control competencies to other control authorities or to control bodies.<sup>77</sup> Several requirements are laid down for the delegation of the control competencies, including specific tasks that cannot be delegated. The tasks and the conditions for delegation to a control body have to be specifically described.<sup>78</sup> Furthermore, information regarding the expertise, equipment, and infrastructure of the control body to carry out the delegated tasks must be provided. This includes a sufficient number of qualified staff and a declaration of absence of a conflict of interest.<sup>79</sup> The control body has to follow a standard procedure with a detailed description of applied control measures.<sup>80</sup> Additionally, the control bodies are required to have a catalogue of measures that have to be applied in

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<sup>75</sup> Article 12 (2) of Regulation (EC) No 1235/2008

<sup>76</sup> Article 2 (p) of Regulation (EC) No 834/2007

<sup>77</sup> Article 27 (4) of Regulation (EC) No 834/2007

<sup>78</sup> Article 27 (5) (a) of Regulation (EC) No 834/2007

<sup>79</sup> Article 27 (5) (b) of Regulation (EC) No 834/2007 and Article 92c (3) of Regulation (EC) No 889/2008

<sup>80</sup> Article 27 (6) (a) of Regulation (EC) No 834/2007



case of non-compliance, especially for a non-compliance affecting the organic status of the products.<sup>81</sup>

Article 27 (7) of Regulation 834/2007 specifies the tasks which cannot be delegated by competent authorities of the Member States and third countries. This encompasses other control bodies' supervision and the competence to grant exceptions to the production rules laid down in the same regulation. In the case that control bodies fail to fulfil their tasks, competent authorities shall withdraw the delegation.<sup>82</sup> Competent authorities evaluate control authorities and bodies to ensure that the audits performed are objective, independent, effective.<sup>83</sup> In the case of control bodies, the results of audits performed by national accreditation bodies have to be taken into account.<sup>84</sup> Article 92e of Regulation (EC) 889/2008 lays down specific aspects that have to be verified during annual inspections:

*(a) the compliance with the control body's standard control procedure as submitted by the control body to the competent authority in accordance with Article 27(6)(a) of Regulation (EC) No 834/2007;*

*(b) that the control body has a sufficient number of suitable qualified and experienced staff in accordance with Article 27(5)(b) Regulation (EC) No 834/2007 and that training concerning risks affecting the organic status of products has been implemented;*

*(c) that the control body has and follows documented procedures and templates for:*

*(i) the annual risk analysis in accordance with Article 27(3) of Regulation (EC) No 834/2007;*

*(ii) preparing a risk-based sampling strategy, conducting sampling and laboratory analysis;*

*(iii) information exchange with other control bodies and with the competent authority;*

*(iv) initial and follow-up controls of operators under their control;*

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<sup>81</sup> Article 27 (6) (b) of Regulation (EC) No 834/2007 and Article 92d of Regulation (EC) No 889/2008

<sup>82</sup> Article 27 (8) of Regulation (EC) No 834/2007

<sup>83</sup> Article 27 (9) (a) (b) of Regulation (EC) No 834/2007

<sup>84</sup> Article 92c (1) of Regulation (EC) No 889/2008

*(v) the application and follow-up to the catalogue of measures to be applied in case of infringements or irregularities;*

*(vi) observing the requirements of the protection of personal data for the operators under its control as laid down by the Member States where that competent authority operates and in accordance with Directive 95/46/EC.*

Moreover, competent authorities have to be informed by control bodies in cases of non-compliances, and the corrective measures applied and withdraw approval in the case that control bodies fail to comply with these obligations.<sup>85</sup> Every control body or authority has an assigned code by the competent authority of the country.<sup>86</sup>

Additionally, control bodies are required to implement a documented risk analysis procedure used as a basis for the number of unannounced and the annual inspection of each operator.<sup>87</sup> Another requirement is that at least 10 % of the operators under the control of the control body have to be inspected additionally.<sup>88</sup> These control visits should be primarily unannounced and based on the risk analysis, taking into account at least the results of previous controls, the number of products concerned, and the risk of exchanging products.<sup>89</sup> Control bodies/authorities shall further take and analyse samples of at least 5 % of the operators under their control. The selection has to be based on the risk analysis mentioned before.<sup>90</sup>

In the case of control authorities/bodies operating in third countries, any changes to the applied control measures must be reported to the Commission.<sup>91</sup> They are required to provide all information related to control activities and submit an annual report to the Commission, further having an updated list of operators published on their website.<sup>92</sup> The Commission can amend specifications relating to control bodies, potentially leading to suspension from the entry in the list of recognised control bodies in cases where control bodies fail to provide all information or refuse on-the-spot inspections.<sup>93</sup> To be imported to the EU, every consignment needs a certificate of

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<sup>85</sup> Article 27 (9) (c) (d) of Regulation (EC) No 834/2007

<sup>86</sup> Article 27 (10) of Regulation (EC) No 834/2007

<sup>87</sup> Article 92c (2) (a) of Regulation (EC) No 889/2008 and Article 65 (1) of Regulation (EC) No 889/2008

<sup>88</sup> Article 92c (2) (b) (c) of Regulation (EC) No 889/2008

<sup>89</sup> Article 65 (4) of Regulation (EC) No 889/2008

<sup>90</sup> Article 65 (2) of Regulation (EC) No 889/2008

<sup>91</sup> Article 5 (1) (a) of Regulation (EC) No 1235/2008

<sup>92</sup> Article 5 (1) (b) (c) (e) of Regulation (EC) No 1235/2008

<sup>93</sup> Article 5 (1) (d) of Regulation (EC) No 1235/2008

inspection (CoI), which has to be submitted to TRACES and verified by importing Member State's competent authority.<sup>94</sup> If imported products are not compliant with the organic production requirements, any references to organic production from the labelling, advertising, and accompanying documents have to be removed.<sup>95</sup>

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<sup>94</sup> Article 13 (1) of Regulation (EC) No 1235/2008 and Article 1 (6) of Regulation (EU) No 2016/1842

<sup>95</sup> Article 15 of Regulation (EC) No 1235/2008

### **3. Descriptive analysis of the audit reports from the European Commission**

This thesis's focus is on organic products imported from third countries, which are certified via private control bodies recognised by the European Commission (EC). To ensure that all organic products entering the EU comply with the organic standards enforced in the internal market, the EC conducts audits to evaluate the control systems' reliability established by recognised control bodies in third countries.

In the European Court of Auditors' report in 2019, some weaknesses in the certification system were identified.<sup>96</sup> One example is a low frequency of audits performed by the Commission. Furthermore, the audit reports revealed several shortcomings in the documentation, traceability, or labelling requirements. As the report in 2019 from the European Court of Auditors only states general problems in the certification system for imported organic products, the purpose of this master thesis is to pursue a quantitative approach to the empirical analysis of the audit reports issued by the European Commission to identify specific infringement categories and to give policy recommendations to optimise the compliance of organic imports.

This chapter is divided into three parts. The first part gives an overview of the applied methodology to establish four categories of non-compliance, which will be qualitatively described in the second part. The third part quantitatively analyses the categories of non-compliances, establishing the distribution of non-compliances over the identified categories, most common categories of non-compliances per country, changes over time, and country-specific changes.

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<sup>96</sup> European Court of Auditors (n 1)

### 3.1. Methodology applied for the analysis of the audit reports from the European Commission

According to the European Commission, food audits in the Member States of the EU and third countries are conducted by Commission's Directorate-General for Health and Food Safety (DG SANTE) to ensure that national authorities and control bodies fulfil their legal obligations.<sup>97</sup> Around 170 staff members are allocated for inspections, which either are on-the-spot audits or documentary checks.<sup>98</sup> All audits are documented in a written report. The process of auditing control bodies and control authorities in third countries is shown in figure 6 and further described in the following paragraphs.

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<sup>97</sup> European Commission, 'Health and Food Audits and Analysis Programme 2020' (Luxembourg 2020) <[https://ec.europa.eu/food/audits\\_analysis/audit\\_programmes\\_en](https://ec.europa.eu/food/audits_analysis/audit_programmes_en)> accessed 12 August 2020

<sup>98</sup> European Commission, 'Health and Food Audits and Analysis' <[https://ec.europa.eu/food/audits\\_analysis\\_en](https://ec.europa.eu/food/audits_analysis_en)> accessed 14 December 2020

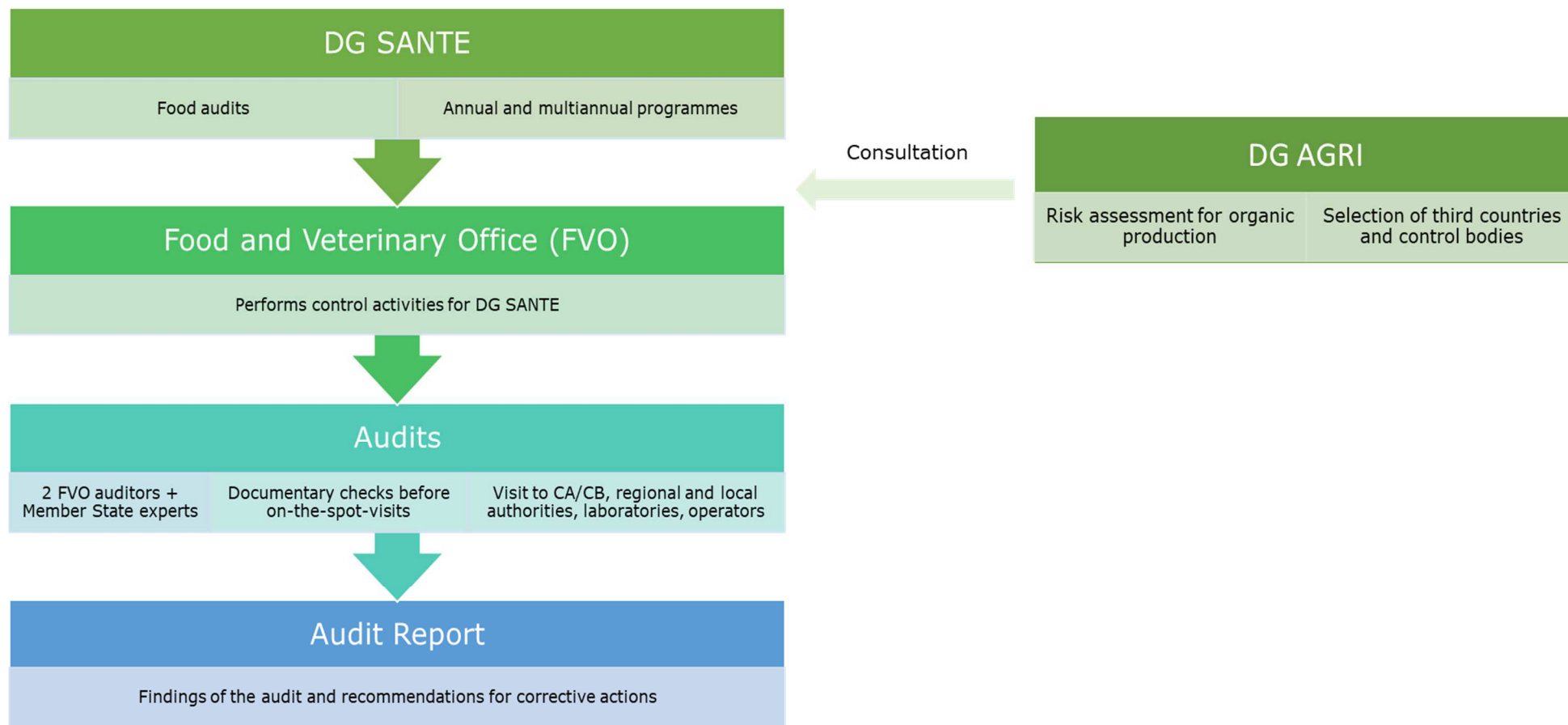


Figure 6: Schematic overview of the process of audits verifying the application of organic production rules and control measures applied by control bodies and control authorities in third countries.

For the selection of countries and areas of focus to be inspected by the Commission, other DGs and EU Member States are consulted. Other parameters, like the risk of irregularities and infringements and trade factors, are taken into account.<sup>99</sup> In the control of organic production rules and control measures applied in third countries, a risk assessment by Commission's Directorate-General for Agriculture and Rural Development (DG AGRI) is used to select the audited countries and control bodies.<sup>100</sup> The European Commission publishes an annual work programme that includes all planned audits and areas of focus.<sup>101</sup> The latest work programme, which was published, includes a multi-annual plan for 2021-2025, for which 30 control bodies in third countries and recognised third countries would be audited if the resources are available.<sup>102</sup>

The Food and Veterinary Office (FVO) conducts the official control activities for DG SANTE, and the audits which will be analysed in this thesis are part of the annual programme of the FVO.<sup>103</sup> Usually, two auditors are assigned to one audit and accompanied by Member States experts. Before the actual on-the-spot audit occurs, the auditors must request documentary information to establish an audit programme. The third countries' visits include a visit to the control authority or control body, regional and local authorities, laboratories, and site visits to operators (e.g. farms, processors, exporters). All findings are presented to the audited party in a closing meeting, and recommendations of corrective actions are stated in the reports. Actions taken by control bodies and third countries are followed up administratively or in further audits.<sup>104</sup> In cases of serious non-compliance, the European Commission can take legal actions, restrictions or ban movements of goods.<sup>105</sup>

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<sup>99</sup> Article 27 (3) of Regulation (EC) No 834/2007

<sup>100</sup> Example report, which mentions the risk assessment by DG AGRI: European Commission, 'Final report of an audit carried out from 21 to 30 January 2019 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (2019) DG(SANTE) 2019-6704

<sup>101</sup> European Commission, 'Health and Food Audits and Analysis Programme 2020' (n 97)

<sup>102</sup> European Commission, 'Health and food audits and analysis programme 2021' (Luxembourg 2020)

<sup>103</sup> European Commission, 'Health and Food Audits and Analysis Programme 2020' (n 97)

<sup>104</sup> Example report which mentions details of the audit process: European Commission, 'Final report of an audit carried out from 23 to 31 January 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in India' (2017) DG(SANTE) 2017-6066

<sup>105</sup> Article 5 (2) of Regulation (EC) No 1235/2008

In total, 41 reports were published from the EC in the years from 2012 to 2020. The timeframe considered in this thesis is due to the fact that no reports from before 2013 were available on organic certification in the meaning of Council Regulation (EC) No 834/2007. Before 2013, the published audit reports were conducted in the EU Member States. These include 11 reports from countries that are recognised as equivalent third countries (Annex III, Commission Regulation (EC) No 1235/2008) and 30 reports from countries that have recognised control bodies (Annex IV, Commission Regulation (EC) No 1235/2008) in place for the certification of organic products. The audited equivalent third countries were Argentina, Australia, Canada, Costa Rica, India, Israel, and Switzerland. The control bodies inspected were operating in Albania, Belarus, Brazil, Bolivia, China, The Dominican Republic, Ecuador, Kenya, Kosovo, Mexico, Paraguay, Peru, Sri Lanka, South Africa, Thailand, Turkey, Ukraine, and Vietnam. In total, 25 third countries were subject to official controls by the EC during 2012-2020. Several non-compliances were stated in each report, summing up to 745 in total (Annex 1 & 2). In the 11 reports from the equivalent third countries, 157 non-compliances were analysed, and in the 30 reports from control bodies operating in third countries, 558 non-compliances were stated. On average, in one report, 18 non-compliances were identified by the European Commission, ranging from one non-compliance up to 43 in one report. <sup>106,107</sup>

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<sup>106</sup> Only one non-compliance stated in the audit report: European Commission, 'Final report of an audit carried out in Israel from 22 November 2015 to 25 November 2015 in order to evaluate the follow-up action taken by the CA on the application of organic production rules and on the effectiveness of the control system for organic production' (2015) DG(SANTE) 2015-7353

<sup>107</sup> 43 non-compliances identified in one report: European Commission, 'Final report of an audit carried out from 11 to 22 April 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Albania and Kosovo' (2016) DG(SANTE) 2016-8742



Table 1: Overview of the numbers (no.) of reports used for this thesis, the number of countries subject to official controls, and total and average non-compliances identified in the reports (see Annex 1 & 2).

	Countries with recognised control bodies	Countries recognised as equivalent third countries
No. of reports from 2013-2020	30	11
No. of countries subject to official controls	18	7
No. of non-compliances	588	157
Average no. of non-compliances by report	19	15

Article 30 of Council Regulation (EC) No 834/2007 refers to measures in case of infringements and irregularities; these terms are not defined in detail, as only the consequent activities of control authorities and bodies are described.<sup>108</sup> When an irregularity occurs, no reference to the organic production method can be made in the labelling and advertising of the entire lot affected by this irregularity. In the case of an infringement, the control authority or body must prohibit the operator concerned from marketing products that refer to the organic production method in the labelling and advertising for a period to be agreed with the Member State's competent authority.<sup>109</sup> For this reason, the present work established a fourfold taxonomy to categorise the non-compliances identified in the audit reports and highlights the differences in severity and the character of the non-compliance.<sup>110</sup>

Based on the differentiation from Zorn et al. (2013) and Zezza et al. (2020), the first part of the taxonomy is established. The non-compliances can either be classified in (i) slight non-compliances / irregularities or in (ii) severe non-compliances / infringements (table 2).<sup>111</sup> The distinction between those categories can be made whether the non-compliance is compromising the products' organic certification

<sup>108</sup> Gambelli D. et al. 'Non-compliance in organic farming: A cross-country comparison of Italy and Germany' (2014) 49 Food Policy 449

<sup>109</sup> Article 30 (1) of Regulation (EC) No 834/2007

<sup>110</sup> Gambelli D. Solfanelli F. and Zanolli R. 'Improving controls in organic farming by timely inspections: a statistical analysis' (2018) 34(3) Biological Agriculture & Horticulture 186

<sup>111</sup> Zezza et al. (n 38)

status. Irregularities, therefore, do not invalidate the organic certification, whereas infringements lead to the case that the organic integrity cannot be assured.<sup>112,113</sup> For the statistical analysis, numbers are allocated to the categories, namely 0 for irregularities and 1 for infringements.

The second part of the classification is developed in this thesis. It is based on the distinction of (i) procedural, administrative aspects of the certification process and (ii) the verification of the organic production standards. The first category encompasses all non-compliances related to procedures in control bodies and control authorities, including the communication with the European Commission, risk assessment of operators under their control, the planning of inspections, and issuance of certificates of inspection (CoIs). The second category concerns the correct verification of organic production by control bodies and control authorities. For example, the verification of off-farm inputs in organic production, the correctly applied conversion period by farmers, the efficient verification of information during inspections, and the representative sampling of products. Similar to the first part of the categorisation, a 0 is allocated to procedural aspects. A 1 is given to non-compliances related to verification of the organic production for the statistical analysis. With this approach, four categories of non-compliance can be established, as shown in table 2.

Table 2: Fourfold taxonomy for the categorisation of the non-compliances identified in the audit reports from the European Commission, establishing the categories A - D.

	Procedural aspects	Verification of organic production
Irregularity/ slight non-compliance	0;0 = A	0;1 = B
Infringement/ severe non-compliance	1;0 = C	1;1 = D

The four categories generated with this approach will be analysed concerning the time frame of the data from the reports and the different countries to detect trends. Once every non-compliance is allocated to categories A - D, the sum of the non-

<sup>112</sup> Zorn A. Lippert C. and Dabbert S. 'An analysis of the risks of non-compliance with the European organic standard: A categorical analysis of farm data from a German control body' (2013) 30(2) Food Control 692

<sup>113</sup> Zezza et al. (n 38)

compliances for each of the four categories will be calculated and then graphically displayed related to the year in which the non-compliance was reported and the country in which it was detected.

### 3.2. Qualitative description of non-compliance categories identified in the audit reports

In the following part, the established categories of non-compliances are qualitatively described. All non-compliances were extracted from the audit reports and classified according to the 4 categories, A, B, C, and D (Annex 1 & 2).

#### 3.2.1. Category A

The first category includes all non-compliances which are not severe, so-called irregularities, relating to procedural aspects of the certification process. The non-compliances allocated to this category do not invalidate the organic status of the products exported to the EU from third countries.<sup>114,115</sup>

Non-compliances related to procedural aspects encompass communication deficiencies from control bodies (CBs) or competent authorities (CAs) in equivalent third countries with the European Commission (EC). These include changes of the recognised organic standards, which were failed to communicate to the EC or an inaccurate list of operators certified for organic production and export to the EU.<sup>116,117</sup> This leads to a lack of control of the EC over effectively applied control measures and production rules in third countries. An incomplete annual report to the EC further undermines the assurance of all imported products' organic status.<sup>118</sup> The availability of CBs or CAs in

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<sup>114</sup> Zorn, Lippert and Dabbert, 'An analysis of the risks of non-compliance with the European organic standard: A categorical analysis of farm data from a German control body' (n 112)

<sup>115</sup> Zezza et al. (n 38)

<sup>116</sup> European Commission, 'Final report of an audit carried out from 11 to 19 April 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Ukraine' (2016) DG(SANTE) 2016-8741

<sup>117</sup> European Commission, 'Final report of an audit carried out in control bodies from 23 February 2015 to 06 March 2015 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru and Bolivia' (2015) DG(SANTE) 2015-7354

<sup>118</sup> European Commission, 'Final report of an audit carried out from 06 March 2017 to 16 March 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Ecuador' (2017) DG(SANTE) 2017-6070

cases of non-compliances or other requests by the EC was also, in some cases, not sufficient.<sup>119</sup>

Several non-compliances regarding the communication of CBs with other CBs or the CA of a third country were also identified. For the certification of a new operator formerly under the control of another CB, the information exchange was too limited between the CBs to ensure that all relevant non-compliances can be taken into account of a new risk assessment.<sup>120,121</sup> Also, in the case of an investigation of non-compliance, different CBs fail to collaborate to identify root causes in a timely manner effectively.<sup>122</sup> The CA's supervision was in some countries not sufficient, meaning that not all control activities performed by CBs were subject to control by the CA.<sup>123</sup>

Another procedural aspect is the risk assessment of operators (organic farmer, producer, exporter, etc.) performed by CBs. In some cases there was no documented procedure in place for assessing the operators under control, which dramatically weakens the reliability of the CBs, as there is no systematic way to guarantee that the operators posing the highest risk are subject to increased control activities.<sup>124</sup> The incomplete risk assessment is another non-compliance, where either not all relevant criteria were included (e.g. size of production or production of organic and conventional products in the same unit), all criteria were given the same weighting or non-compliances identified in previous inspections were not used in the evaluation of

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<sup>119</sup> European Commission, 'Final report of an audit carried out from 28 January 2020 to 06 February 2020 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body operating in India' (2020) DG(SANTE) 2020-7037

<sup>120</sup> European Commission, 'Final report of an audit carried out from 11 to 19 April 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Ukraine' (n 116)

<sup>121</sup> European Commission, 'Final report of an audit carried out from 27 January 2020 to 06 February 2020 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body operating in Peru' (2020) DG(SANTE) 2020-7036

<sup>122</sup> European Commission, 'Final report of an audit carried out from 28 January 2020 to 06 February 2020 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body operating in India' (n 119)

<sup>123</sup> European Commission, 'Final report of an audit carried out in Costa Rica from 23 February 2016 to 04 March 2016 in order to evaluate the control systems for organic production and labelling of organic products' (2016) DG(SANTE) 2016-8738

<sup>124</sup> European Commission, 'Final report of an audit carried out from 24 September 2018 to 02 October 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Paraguay' (2018) DG(SANTE) 2018-6399

the operator.<sup>125,126,127,128</sup> All those infringements lead to an inadequate risk assessment and hence, incorrect planning of control activities.

As described earlier, the accreditation of CBs is a control step in the certification of organic products. The audits performed by accreditation bodies were not consistent in-depth, and the level of detail or reaccreditation of CBs delayed.<sup>129,130</sup> CBs continuing their certification activities without a valid accreditation does not ensure that the CBs act following the control measures for which the EC recognised them. Another procedural aspect is the lack of frequent communication between branch offices and headquarters (HQ) of CB of all relevant information needed for CB HQ to issue certificates of inspection (CoIs). CB HQs were not aware of all control activities performed by branch offices and cannot ensure their correct application.<sup>131,132</sup>

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<sup>125</sup> European Commission, 'Final report of an audit carried out from 02 March 2015 to 13 March 2015 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (2015) DG(SANTE) 2015-7356

<sup>126</sup> European Commission, 'Final report of an audit carried out from 21 to 30 January 2019 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 100)

<sup>127</sup> European Commission, 'Final report of an audit carried out from 22 November 2017 to 01 December 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Turkey' (2017) DG(SANTE) 2017-6068

<sup>128</sup> European Commission, 'Final report of an audit carried out from 12 March to 19 March 2019 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Mexico' (2019) DG(SANTE) 2019-6709

<sup>129</sup> European Commission, 'Final report of an audit carried out in India from 13 April 2015 to 23 April 2015 in order to evaluate the application of organic production rules and the effectiveness of the control system for organic production' (2015) DG(SANTE) 2015-7355

<sup>130</sup> European Commission, 'Final report of an audit carried out in Canada from 21 September 2015 to 02 October 2015 in order to evaluate the application of organic production rules and the effectiveness of the control system for organic production' (2015) DG(SANTE) 2015-7407

<sup>131</sup> European Commission, 'Final report of an audit carried out from 22 November 2017 to 01 December 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Turkey' (n 127)

<sup>132</sup> European Commission, 'Final report of an audit carried out from 03 to 13 September 2019 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in China' (2019) DG(SANTE) 2019-6706

The training of inspectors forms a vital part in ensuring that inspections are performed satisfactorily to the standards. Non-compliances identified include inspectors that are not given guidance on conducting inspections properly and that have to perform audits without prior witness audits from experienced inspectors.<sup>133,134</sup> The inspectors are, therefore, in some cases, not prepared to perform adequate inspections of organic production, and the supervision of inspectors via reviewing inspection reports was not sufficient.<sup>135,136</sup> Without effective supervision of inspectors, no fitted training can be provided to remedy shortcomings in inspections. In some cases, the inspectors had no sufficient knowledge of the local language, and this does not ensure that all requirements can be sufficiently verified during on-site inspections.<sup>137,138</sup>

### 3.2.2. Category B

The second category encompasses all slight non-compliances/irregularities relating to the verification of organic production. The organic status of the products is also not compromised when non-compliances from this category occur. Instead of procedural aspects, verifying the applied organic production rules is taken into account in this category.

Small farmers often work together in a producer group (PG) and obtain a group certification to reduce individual farmers' costs. According to EU guidelines on

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<sup>133</sup> European Commission, 'Final report of an audit carried out from 09 May 2017 to 18 May 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Bolivia' (2017) DG(SANTE) 2017-6083

<sup>134</sup> European Commission, 'Final report of an audit carried out in Australia from 16 June 2014 to 27 June 2014 in order to evaluate the application of organic production rules and the effectiveness of the control system for organic production' (2014) DG(SANTE) 2014-7122

<sup>135</sup> European Commission, 'Final report of an audit carried out from 26 February 2016 to 08 March 2016 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body in Thailand' (2016) DG(SANTE) 2016-8739

<sup>136</sup> European Commission, 'Final Report of an audit carried out in control bodies from 17 to 28 November 2014 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body operating in Vietnam' DG(SANTE) 2014-7097

<sup>137</sup> European Commission, 'Final report of an audit carried out from 13 to 25 April 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Kenya' (2018) DG(SANTE) 2018-6395

<sup>138</sup> European Commission, 'Final report of an audit carried out from 11 to 19 April 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Ukraine' (n 116)

importing organic products, PGs are required to have an internal control system (ICS) to supervise the individual farmer.<sup>139</sup> Several non-compliances stated that the general supervision of the ICS of PGs was not sufficient, which was due to a lack of control of the performance of internal inspectors and verification of operators by the CBs.<sup>140,141,142</sup> Another important issue was the inadequate enforcement measures against PGs, as only individual operators were sanctioned, and the ICS was not systematically evaluated.<sup>143,144</sup> The compliance of all PG members can, therefore, not be ensured by CBs. Additionally, in some cases, operators collaborating as a group were not officially established as a PG and hence had no ICS implemented, which is required by EU guidelines on PGs.<sup>145,146</sup>

### 3.2.3. Category C

The third category includes all severe non-compliances relating to procedural aspects. These infringements invalidate the products' organic status, meaning that the organic qualities that the products inherit due to the elaborate and costly production measures cannot be assured with the certification.<sup>147</sup> The procedural aspects of

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<sup>139</sup> European Commission, 'Guidelines on imports of organic products into the European Union' (15 December 2018)

<sup>140</sup> European Commission, 'Final report of an audit carried out from 06 March 2017 to 16 March 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Ecuador' (n 118)

<sup>141</sup> European Commission, 'Final report of an audit carried out from 26 February 2016 to 08 March 2016 in order to evaluate the application of the organic production standards and copontrol measures applied by a recognised control body in Thailand' (n 135)

<sup>142</sup> European Commission, 'Final report of an audit carried out from 15 to 25 November 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (2016) DG(SANTE) 2016-8743

<sup>143</sup> European Commission, 'Final report of an audit from 11 March 2014 to 20 March 2014 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body operating in Turkey' (2014) DG(SANTE) 2014-7123

<sup>144</sup> European Commission, 'Final report of an audit carried out from 21 to 30 January 2019 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 100)

<sup>145</sup> European Commission, 'Guidelines on imports of organic products into the European Union' (n 139)

<sup>146</sup> European Commission, 'Final report of an audit carried out from 23 January 2017 to 03 February 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Brazil' (2017) DG(SANTE) 2017-6065

<sup>147</sup> Zorn, Lippert and Dabbert, 'An analysis of the risks of non-compliance with the European organic standard: A categorical analysis of farm data from a German control body' (n 112)

certification include, among other things, communication deficiencies, risk assessment of operators, and training of inspectors as previously described in category A.

More particularly, the planning of inspections, a vital part of the control activities of a CB, was in some cases not based on a risk assessment, meaning that operators posing the highest risk were not selected for additional inspections.<sup>148,149</sup>

Furthermore, additional unannounced inspections were, in some cases, announced with a prior warning to operators, which reduces the effectiveness of the control system, as operators can prepare for inspections.<sup>150</sup> Moreover, the minimum target of additional unannounced audits was not met. Inspections were not planned at the most appropriate time, which does not ensure control over all activities during all seasons.

<sup>151,152</sup> Inspections could not appropriately be planned because necessary information was not or only on short notice provided by operators. This leads to inspectors using much time during the inspections with the verification of the missing information.

<sup>153,154</sup> Inspectors were not checked to have signed a conflict of interest declaration; therefore there is the threat that inspectors certify non-compliant operators in exchange for money.<sup>155,156</sup>

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<sup>148</sup> European Commission, 'Final report of an audit carried out from 26 February 2016 to 08 March 2016 in order to evaluate the application of the organic production standards and copntrol measures applied by a recognised control body in Thailand' (n 135)

<sup>149</sup> European Commission, 'Final report of an audit carried out from 11 to 20 November 2015 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in South Africa' (2015) DG(SANTE) 2015-7408

<sup>150</sup> European Commission, 'Guidelines on additional official controls on products originating from China' (2019)

<sup>151</sup> European Commission, 'Final report of an audit carried out in China from 09 to 21 October 2013 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body in China' (2013) DG(SANCO) 2013-6951

<sup>152</sup> European Commission, 'Final report of an audit carried out from 14 to 24 November 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in China' (2017) DG(SANTE) 2017-6067

<sup>153</sup> European Commission, 'Final report of an audit carried out from 11 to 19 April 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Ukraine' (n 116)

<sup>154</sup> European Commission, 'Final report of an audit carried out from 09 May 2017 to 18 May 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Bolivia' (n 133)

<sup>155</sup> European Commission, 'Final report of an audit carried out from 02 March 2015 to 13 March 2015 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 125)

<sup>156</sup> European Commission, 'Final report of an audit carried out from 13 to 25 April 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Kenya' (n 137)



The time allocated for inspections in some reports mentioned does not ensure the adequate verification of all production rules.<sup>157,158</sup> In cases where operators have further subcontracted other operators, the subcontractors were not included in the planning of inspections and therefore not subject to the certification system.<sup>159,160</sup>

Another critical part of the certification is the label, stating the product's organic origin. Non-compliances relating to incorrect labelling of organic products also form part of procedural aspects of the certification. A wrong CB number was most commonly displayed on the labels, or inspectors did not sufficiently verify correct labelling.<sup>161,162</sup> In both cases, the traceability and the correct organic status can be questioned. In the most severe cases, conventional products were labelled as organic.

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Non-compliances that are part of procedural aspects include insufficient follow-up investigations performed by CBs or CAs to identify and remedy causes of non-compliances. Incorrect or inconsistent application of enforcement measures laid down in the sanction catalogue cannot ensure that non-compliances are corrected or sanctioned appropriately, which undermines the certification system.<sup>164,165</sup> In some

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<sup>157</sup> European Commission, 'Final Report of an audit carried out in control bodies from 17 to 28 November 2014 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body operating in Vietnam' (n 136)

<sup>158</sup> European Commission, 'Final report of an audit carried out in Switzerland from 09 to 19 September 2013 in order to evaluate the application of organic production rules, the effectiveness of the control system for organic production and the supervision carried out by the competent authority' (2013) DG(SANCO) 2013-6700

<sup>159</sup> European Commission, 'Final report of an audit carried out from 11 to 22 April 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Albania and Kosovo' (n 107)

<sup>160</sup> European Commission, 'Final report of an audit carried out from 27 January 2020 to 06 February 2020 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 121)

<sup>161</sup> European Commission, 'Final report of an audit carried out from 15 to 25 November 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 142)

<sup>162</sup> European Commission, 'Final report of an audit carried out from 06 March 2017 to 16 March 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Ecuador' (n 118)

<sup>163</sup> European Commission, 'Final report of an audit carried out from 11 to 22 April 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Albania and Kosovo' (n 107)

<sup>164</sup> European Commission, 'Final report of an audit carried out in China from 09 to 21 October 2013 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body in China' (n 151)

<sup>165</sup> European Commission, 'Final report carried out from 19 March 2018 to 22 March 2018 in order to evaluate the implementation of the organic production standards and control

cases, operators were re-certified without implementing corrective actions, or in other cases, the certification is withdrawn after a lengthy investigation, leading to products being certified as organic.<sup>166,167,168,169,170</sup> In contrast, the operator did not comply with all requirements for organic production. The investigations conducted by CBs were not effective as the root causes could not be identified in all cases, which can be because no additional samples were taken during on-site visits.<sup>171</sup> Additionally, recurring non-compliances identified by inspectors show the lack of enforcement measures applied by CBs.<sup>172,173</sup>

In some cases, the CBs acted out of the equivalence recognition scope, which was established with the EC. Either products not covered under the control body's scope or the equivalent third country were certified, or products were certified, which were partly produced in a country not recognised by the EC.<sup>174,175,176</sup> Both cases cannot

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measures applied by a recognised control body operating in Mexico' (2018) DG(SANTE) 2018-6394

<sup>166</sup> European Commission, 'Final report of an audit carried out from 12 March to 19 March 2019 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Mexico' (n 128)

<sup>167</sup> European Commission, 'Final report of an audit carried out from 12 June 2018 to 20 June 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Ukraine' (2018) DG(SANTE) 2018-6396

<sup>168</sup> European Commission, 'Final report of an audit carried out from 06 March 2017 to 16 March 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Ecuador' (n 118)

<sup>169</sup> European Commission, 'Final report of an audit carried out from 11 to 22 April 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Albania and Kosovo' (n 107)

<sup>170</sup> European Commission, 'Final report of an audit carried out from 21 to 30 January 2019 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 100)

<sup>171</sup> European Commission, 'Final report of an audit carried out in control bodies from 23 February 2015 to 06 March 2015 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru and Bolivia' (n 117)

<sup>172</sup> European Commission, 'Final report of an audit carried out from 12 June 2018 to 20 June 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Ukraine' (n 167)

<sup>173</sup> European Commission, 'Final report of an audit carried out from 26 February 2016 to 08 March 2016 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body in Thailand' (n 135)

<sup>174</sup> European Commission, 'Final report of an audit carried out in China from 09 to 21 October 2013 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body in China' (n 151)

<sup>175</sup> European Commission, 'Final report of an audit carried out from 14 to 24 November 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in China' (n 152)

<sup>176</sup> European Commission, 'Final report of an audit carried out in Israel from 24 February to 07 March 2013 in order to evaluate the application of organic production rules, the effectiveness

ensure that the products were produced in accordance with EU requirements as the producers were not part of the certification system. In another case, operators were certified without a thorough verification of all information, even if the EC did not recognise the former CB.<sup>177</sup> A lack of implementation of all EU requirements further undermines the assurance of all imported products' organic status.<sup>178,179</sup>

Furthermore, non-compliances related to the issuance of CoIs, which are mandatory for the export of products to the EU, form part of procedural aspects of certification. Particularly insufficient traceability of products for export was identified.<sup>180,181</sup>

Incorrect information is provided by operators or not verified by CBs before issuing CoIs, certificates are generated after the consignments left the country (Article 13 (2) Commission Regulation (EC) 1235/2008), or there are no physical checks based on a risk assessment as required by Article 13 (4) Commission Regulation (EC) 1235/2008.

<sup>182,183,184,185</sup> When there is no systematic verification of information regarding the

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of the control system for organic production and the supervision carried out by the competent authority' (2013) DG(SANCO) 2013-6697

<sup>177</sup> European Commission, 'Final report of an audit carried out from 11 to 19 April 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Ukraine' (n 116)

<sup>178</sup> European Commission, 'Final report of an audit carried out from 21 to 30 January 2019 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 100)

<sup>179</sup> European Commission, 'Final report of an audit from 11 March 2014 to 20 March 2014 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body operating in Turkey' (n 143)

<sup>180</sup> European Commission, 'Final report of an audit carried out from 13 to 25 April 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Kenya' (n 137)

<sup>181</sup> European Commission, 'Final report of an audit carried out from 21 to 30 January 2019 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 100)

<sup>182</sup> European Commission, 'Final report of an audit carried out in Australia from 16 June 2014 to 27 June 2014 in order to evaluate the application of organic production rules and the effectiveness of the control system for organic production' (n 134)

<sup>183</sup> European Commission, 'Final report of an audit carried out in India from 13 April 2015 to 23 April 2015 in order to evaluate the application of organic production rules and the effectiveness of the control system for organic production' (n 129)

<sup>184</sup> European Commission, 'Final report of an audit carried out from 08 to 16 May 2019 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in the Dominican Republic' (2019) DG(SANTE) 2019-6707

<sup>185</sup> European Commission, 'Final report of an audit carried out from 26 February 2016 to 08 March 2016 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body in Thailand' (n 135)

traceability of organic products, the organic status cannot be fully ensured by CBs, responsible for issuing CoIs.

#### 3.2.4. Category D

The fourth category includes all severe non-compliances related to the verification of the applied organic production rules. The non-compliances in this category compromise the organic certification so that the products can no longer be sold as organic. The verification of organic production includes inter alia the verification of granted derogations, the use of unauthorised substances, and the sampling strategy.

In particular, the quality of inspections, especially the inspectors' performance, is most important in ensuring a satisfactory verification of organic production. Most non-compliances in this category regarded an insufficient verification of information provided by operators, off-farm inputs used by operators, traceability, separation of conventional and organic products, the organic status of raw materials, cleaning records, harvest estimations made, or the verification of all premises of the operator during inspections.<sup>186,187,188,189</sup> The lack of verification of those aspects could potentially undermine the organic status of products, as there is no assurance that the production rules are followed in accordance with EU requirements. Other types of non-compliances were related to inspectors' competencies, as non-compliances by operators were not correctly classified or not identified at all.<sup>190,191</sup> Furthermore, mass

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<sup>186</sup> European Commission, 'Final report of an audit carried out from 02 March 2015 to 13 March 2015 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 125)

<sup>187</sup> European Commission, 'Final report of an audit carried out from 22 November 2017 to 01 December 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Turkey' (n 127)

<sup>188</sup> European Commission, 'Final report of an audit carried out from 14 to 24 November 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in China' (n 152)

<sup>189</sup> European Commission, 'Final report of an audit carried out in control bodies from 24 January 2018 to 01 February 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in the Dominican Republic' (2018) DG(SANTE) 2018-6392

<sup>190</sup> European Commission, 'Final report of an audit carried out from 12 March to 19 March 2019 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Mexico' (n 128)

<sup>191</sup> European Commission, 'Final report of an audit carried out from 11 to 22 April 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Albania and Kosovo' (n 107)

balance exercises were not calculated considering all relevant information. <sup>192,193</sup>

Another example of insufficient verification of EU requirements is that for assessing the 95% organic ingredient requirement, a single crop product (tea) was chosen by inspectors. <sup>194</sup>

The verification of organic production measures also includes the granting of derogations from the organic production rules established by EU legislation. The use of conventional seeds in the case that no organic seeds are available in the third country and the retroactive recognition of the conversion period of 5 years is granted as derogations. <sup>195,196,197,198</sup> In both cases, if the verification of the necessary information provided by operators is not sufficient, the organic status is questionable of products generated from plots not undergoing the whole conversion period. The use of conventional seeds could not be justified. <sup>199</sup> Moreover, the documented procedure

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<sup>192</sup> European Commission, 'Final report of an audit carried out in China from 10 to 23 October 2013 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body in China' (2013) DG(SANCO) 2013-6952

<sup>193</sup> European Commission, 'Final report of an audit carried out from 24 September 2018 to 02 October 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Paraguay' (n 124)

<sup>194</sup> European Commission, 'Final report of an audit carried out from 11 May 2017 to 24 May 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Sri Lanka' (2017) DG(SANTE) 2017-6082

<sup>195</sup> European Commission, 'Final report of an audit carried out in China from 10 to 23 October 2013 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body in China' (n 192)

<sup>196</sup> European Commission, 'Final report carried out from 19 March 2018 to 22 March 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Mexico' (n 165)

<sup>197</sup> European Commission, 'Final report of an audit carried out from 21 to 30 January 2019 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 100)

<sup>198</sup> European Commission, 'Final report of an audit carried out in control bodies from 24 January 2018 to 01 February 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in the Dominican Republic' (n 189)

<sup>199</sup> European Commission, 'Final report carried out from 19 March 2018 to 22 March 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Mexico' (n 165)

was not sufficiently implemented or not in place at all, which leads to a non harmonised approach of granting derogations. <sup>200,201,202</sup>

A control measure to ensure no unauthorised substances were used during production is the sampling of products during various production phases, including soil samples from fields, parts of plants, raw materials, and processed products. On the one hand, non-compliances related to the planning of sampling were identified; for example, the appropriate sampling time was not considered, e.g., samples taken only during harvest season and not during sowing seasons. <sup>203,204</sup> The sampling plan was not based on the risk assessment results, leading to higher risk operators not being sampled for unauthorised substances. <sup>205</sup> Furthermore, the requirement of a minimum of operators being annually sampled was not always met by CBs. <sup>206</sup> Other non-compliances were related to a lack of proper equipment of inspectors to perform representative sampling, where either no guidance on how to take samples correctly was given, the equipment itself was not provided, or the sampling forms which have to be filled in by inspectors did not include all relevant criteria, e.g., the plot where

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<sup>200</sup> European Commission, 'Final report of an audit carried out from 13 to 25 April 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Kenya' (n 137)

<sup>201</sup> European Commission, 'Final report of an audit carried out from 11 May 2017 to 24 May 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Sri Lanka' (n 194)

<sup>202</sup> European Commission, 'Final report of an audit carried out from 22 November 2017 to 01 December 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Turkey' (n 127)

<sup>203</sup> European Commission, 'Final report of an audit carried out from 11 to 19 April 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Ukraine' (n 116)

<sup>204</sup> European Commission, 'Final report of an audit carried out from 13 to 25 April 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Kenya' (n 137)

<sup>205</sup> European Commission, 'Final report of an audit carried out from 11 May 2017 to 24 May 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Sri Lanka' (n 194)

<sup>206</sup> European Commission, 'Final report of an audit carried out from 08 to 16 May 2019 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in the Dominican Republic' (n 184)

the sample was taken.<sup>207,208,209</sup> Furthermore, in many cases, the inspectors did not ensure a temperature-controlled transport of perishable samples, negatively affecting analytical results.<sup>210</sup> On the other hand, the laboratories' analytical scope was limited and did not always include all relevant unauthorised substances like glyphosate.<sup>211,212</sup> Additionally, in some cases, the accreditation scope of the contracted laboratories was not verified by CBs.<sup>213</sup>

The evaluation of analytical results was, in some cases, compromised as tolerance levels for unauthorised plant protection products (PPPs) were established.<sup>214,215</sup> The EU requirements for organic products are apparent in this regard, as the use of unauthorised PPPs is prohibited (Article 16 (1) Council Regulation (EC) 834/2007). Article 5 (1) of Council Regulation (EC) 889/2008 states that only PPPs listed in Annex II of the same regulation may be applied to organic fields and crops. The establishment of a tolerance level or unrepresentative samples compromises the organic status of the products exported to the EU.

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<sup>207</sup> European Commission, 'Final report carried out from 19 March 2018 to 22 March 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Mexico' (n 165)

<sup>208</sup> European Commission, 'Final report of an audit carried out from 06 March 2017 to 16 March 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Ecuador' (n 118)

<sup>209</sup> European Commission, 'Final report of an audit carried out from 12 March to 19 March 2019 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Mexico' (n 128)

<sup>210</sup> European Commission, 'Final report of an audit from 26 May 2015 to 05 June 2015 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Ukraine and Belarus' (2015) DG(SANTE) 2015-7409

<sup>211</sup> European Commission, 'Final report of an audit carried out from 24 September 2018 to 02 October 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Paraguay' (n 124)

<sup>212</sup> European Commission, 'Final report of an audit carried out in China from 09 to 21 October 2013 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body in China' (n 151)

<sup>213</sup> European Commission, 'Final report of an audit carried out from 13 to 25 April 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Kenya' (n 137)

<sup>214</sup> European Commission, 'Final report of an audit carried out from 08 to 16 May 2019 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in the Dominican Republic' (n 184)

<sup>215</sup> European Commission, 'Final report carried out from 19 March 2018 to 22 March 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Mexico' (n 165)

### 3.3. Quantitative analysis of the non-compliance categories

#### 3.3.1. Equivalent third countries

On average, 15 non-compliances per report from equivalent third countries were stated. Ranging from one non-compliance in a follow-up report from Israel (2015) to 30 non-compliances in Costa Rica's report (2016).<sup>216,217</sup> In total, 11 reports were available for the years 2012 – 2020. Table 3 shows the number of reports per year, as the audits were not evenly distributed over the time frame. In 2015 three audits were performed, whereas in 2013 and 2014, two were conducted, and in the other years, only one audit in an equivalent third country took place. For the years 2018 and 2019, no audit reports were publicly available.

Table 3: Number of audit reports per year for equivalent third countries from the years 2012 – 2020.

Year of the report	Number of reports
2012	1
2013	2
2014	2
2015	3
2016	1
2017	1
2020	1

Figure 7 shows the distribution of the identified non-compliance categories A – D for all inspected equivalent third countries over 2012 – 2020. The non-compliances were quantified, and the sum for each category per year displayed. The most non-compliances were found in the years 2013 to 2016, having regard that two or more audits were performed in these years or rather the report from 2016 identified the highest number of non-compliances.

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<sup>216</sup> European Commission, 'Final report of an audit carried out in Israel from 22 November 2015 to 25 November 2015 in order to evaluate the follow-up action taken by the CA on the application of organic production rules and on the effectiveness of the control system for organic production' (n 106)

<sup>217</sup> European Commission, 'Final report of an audit carried out in Costa Rica from 23 February 2016 to 04 March 2016 in order to evaluate the control systems for organic production and labelling of organic products' (n 123)



The relatively low numbers of non-compliances in category B stick out on the first look. This can be explained as non-compliances related to the verification of the organic production rules often also invalidate the products' organic status and, therefore, are allocated to category D instead of B. The relation of categories A, C, and D is the same for the years 2012 to 2014, where C is the most common type of non-compliance, followed by D and A. Hence, most non-compliances were severe and related to procedural aspects, followed by severe non-compliances related to the verification of organic production rules. From 2015 on, category A and C are reversed, as more slight non-compliances assigned to category A occur. Still, a high amount of non-compliances allocated to category D were identified. The years 2012 and 2017 lack non-compliances of category B, which can be because only one audit was conducted for each year, both in India. <sup>218,219</sup>

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<sup>218</sup> European Commission, 'Final report of an audit carried out in India from 15 to 26 October 2012 in order to evaluate the application of organic production rules, the effectiveness of the control system for organic production and the supervision carried out by the competent authority' (2012) DG(SANCO) 2012-6571

<sup>219</sup> European Commission, 'Final report of an audit carried out from 23 to 31 January 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in India' (n 104)

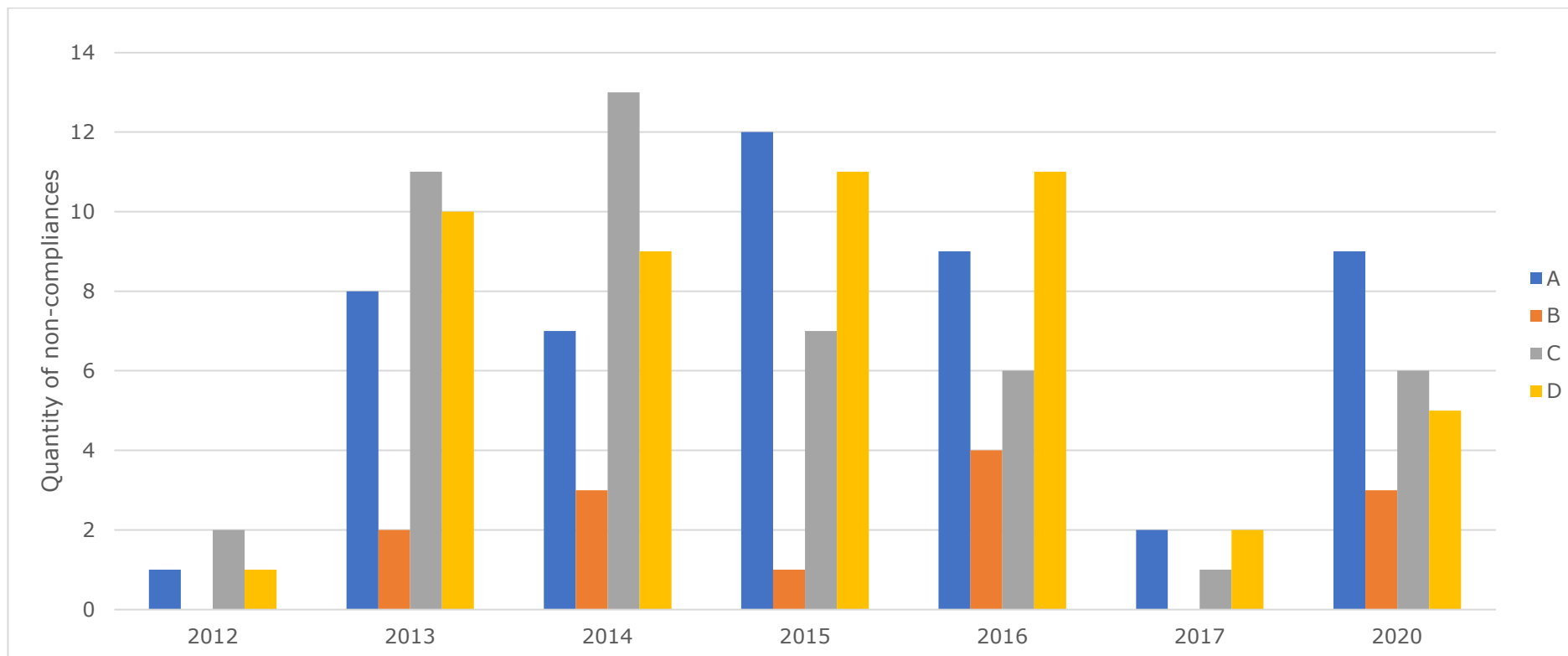


Figure 7: Distribution of the non-compliance categories A (irregularities/procedural aspects), B (irregularities/verification of organic production), C (infringements/procedural aspects), and D (infringements/verification of organic production) over the time frame 2012 – 2020 for equivalent third countries.

The distribution of the non-compliance categories according to the equivalent third country is depicted in figure 8. On the first look, the only third countries audited more than once were India and Israel, subject to inspections two or four times over the years 2012 – 2020. Two follow-up audits were performed, both in 2015, following the audit from 2012 in India and the audit from 2013 in Israel. The follow-up audit in Israel in 2015 was focusing only on one aspect of the organic certification, namely that Israel only certifies organic products produced within its own officially recognised borders.<sup>220</sup> Therefore, the scope of the audit was minimal, leading to only one identified non-compliance. The follow-up audit performed in India identified more severe non-compliance in category D than in the previous audit. The relation of category A to C was also inversed, meaning that relatively more slight non-compliances related to procedural aspects were identified. Still, in total more non-compliances were noticed. This can either be that the follow-up audit performed by the Commission was more comprehensive or that the inspected third country was less compliant. This raises the question if the follow-up audits' effectiveness is guaranteeing that all control activities are sufficiently performed.

Overall there is the tendency that more non-compliances are related to procedural aspects of the certification process, which can be seen for the countries Australia, Canada, India in 2020, and Switzerland. Contrary to this, severe non-compliances related to the verification of the organic production rules dominate in the countries Argentina, Costa Rica, India (2015), and Israel (2013). Therefore, no clear trend can be derived, as there are substantial country-specific differences.

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<sup>220</sup> European Commission, 'Final report of an audit carried out in Israel from 22 November 2015 to 25 November 2015 in order to evaluate the follow-up action taken by the CA on the application of organic production rules and on the effectiveness of the control system for organic production' (n 106)

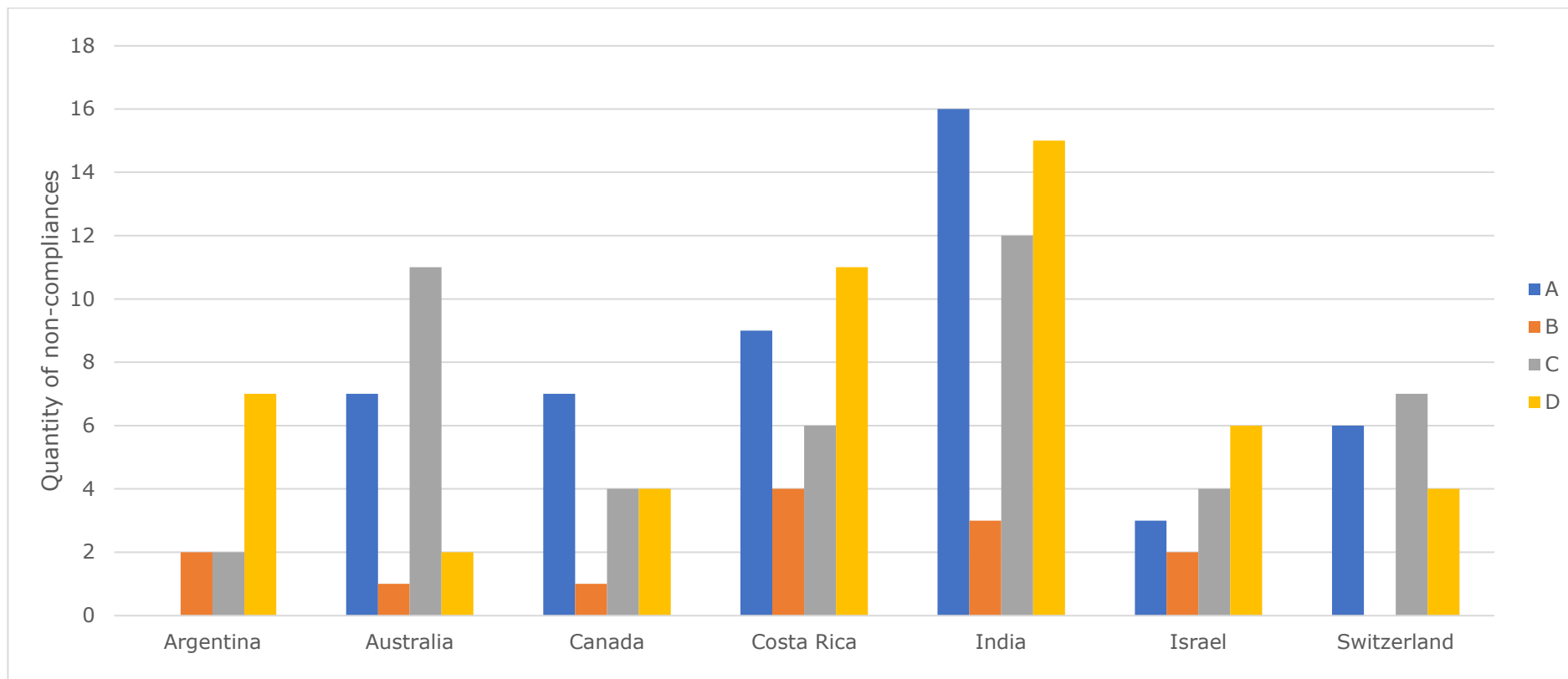


Figure 8: Distribution of the non-compliances identified in the reports from equivalent third countries for each country according to categories A (irregularities/procedural aspects), B (irregularities/verification of organic production), C (infringements/procedural aspects), and D (infringements/verification of organic production).

### 3.3.2. Control bodies operating in third countries recognised by the European Commission

On average, 19 non-compliances per report from recognised control bodies operating in third countries were stated. Ranging from seven non-compliances in the report from Turkey (2019) to 43 non-compliances in a report from Albania and Kosovo (2016).<sup>221,222</sup> In total, 30 reports were available for the years 2013 – 2020. Table 4 shows the number of reports per year, as the audits were not evenly distributed over the time frame. In 2013 three audits were performed, whereas in 2014 and 2020, two, respectively, one audit was conducted. Most audits were performed from 2015 to 2019, which is also reflected with higher numbers of non-compliances in figure 9.

Table 4: Number of audit reports per year for control bodies operating in third countries from the years 2013 – 2020.

Year of the report	Number of reports
2013	3
2014	2
2015	4
2016	4
2017	6
2018	5
2019	5
2020	1

Figure 4 shows a dominance of category D, followed by categories C and A in the years 2013 and 2016 – 2018. The same can be seen in 2014, except that the number of non-compliances is closer to each other. The year 2019 shows as the only year a prevalence of non-compliances related to procedural aspects (category A and C) than related to the verification of organic production rules, especially category D. The low

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<sup>221</sup> European Commission, 'Final report of an audit carried out in control bodies from 14 October 2019 to 23 October 2019 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Turkey' (2019) DG(SANTE) 2019-6708

<sup>222</sup> European Commission, 'Final report of an audit carried out from 11 to 22 April 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Albania and Kosovo' (n 107)

numbers of category B can be explained by the nature of the non-compliances in this category. Non-compliances related to the verification of production rules often invalidate the products' organic status and, therefore, are allocated to category D.

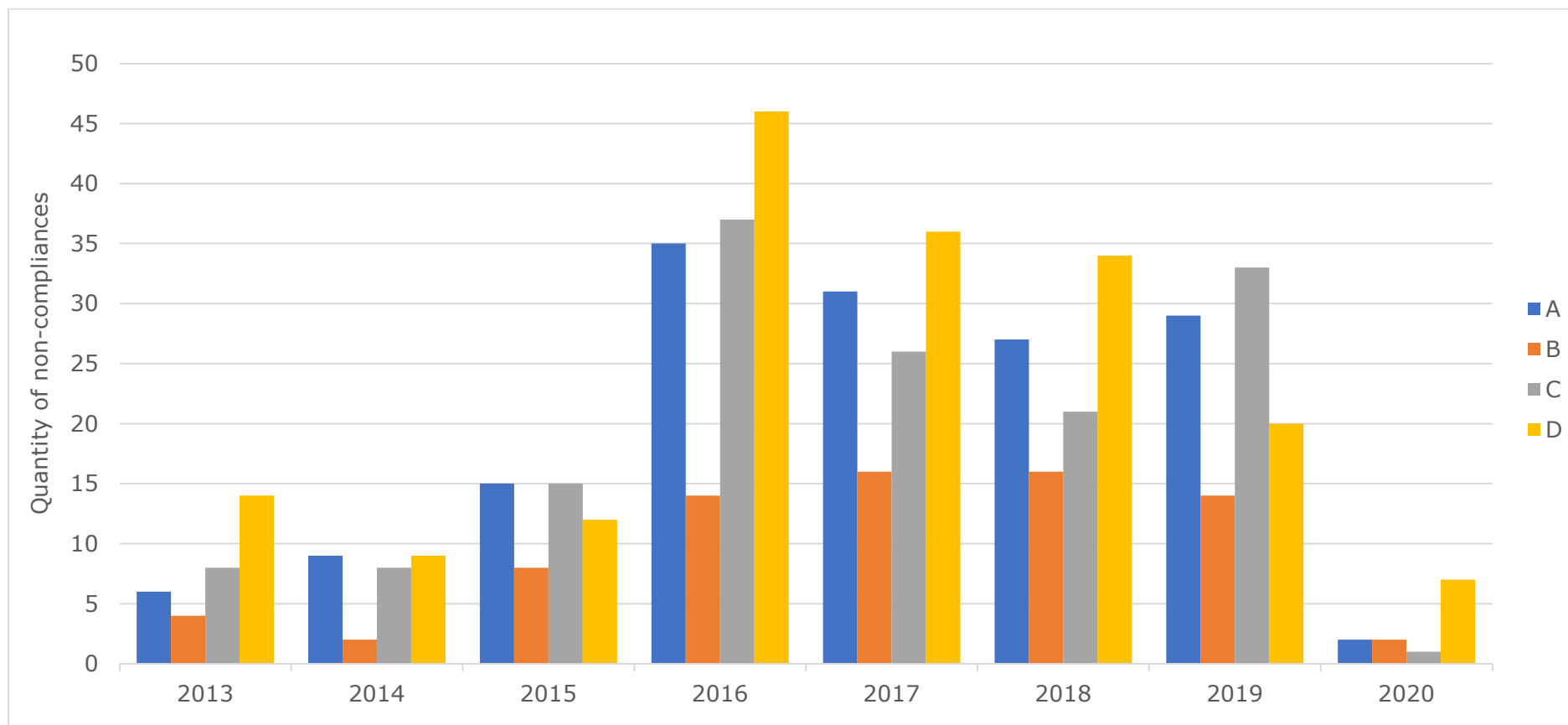


Figure 9: Distribution of the non-compliance categories A (irregularities/procedural aspects), B (irregularities/verification of organic production), C (infringements/procedural aspects), and D (infringements/verification of organic production) over the time frame 2013 – 2020 for recognised control bodies operating in third countries.

In the following, various control bodies are analysed according to the third country in which they are operating. Figure 10 shows the different non-compliance categories identified in the reports from control bodies operating in China. In 2013, three control bodies were subject to Commission's controls because of several pesticide residues that were detected in EU member states in imports from China.<sup>223</sup>

After comparing the audit reports with the corresponding amendments to Annex IV of Commission Regulation (EC) No. 1235/2008, the CB's audited could be identified. The recognised control body of the report China (1) is CERES Certification of Environmental Standards GmbH with the number 140. In the second report of 2013, a high number of non-compliances allocated to category D were identified. The CB, Organic Food Development Center with the number 103, was deleted from the list of recognised control bodies after 2013, which could be due to the high number of severe non-compliances identified by the Commission.<sup>224,225</sup> The third audit in 2013 was performed at the CB BCS Öko-Garantie GmbH with the number 141. The number of non-compliances is similar to the first audit of the year. Both CBs continued their certification activities after implementing corrective actions proposed by the Commission in the audit reports.<sup>226,227</sup>

The audit from 2017 is particularly interesting because an importing company from Germany filed a case against the Commission (P. Krücken v Commission T-565/18) after having bought with pesticides contaminated products which were certified by the CB inspected in this report, namely Ecocert SA with the number 154.<sup>228</sup> P. Krücken Organic GmbH v Commission deals with whether the Commission is fulfilling its

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<sup>223</sup> European Commission, 'Final report of an audit carried out in China from 14 to 20 October 2013 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body in China' (2013) DG(SANCO) 2013-6953

<sup>224</sup> Commission Regulation (EC) No 1235/2008 of December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries. 01.07.2013

<sup>225</sup> Commission Implementing Regulation (EU) No 1287/2014 of 28 November 2014 amending and correcting Regulation (EC) No 1235/2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries. 04.12.2014

<sup>226</sup> European Commission, 'Control Body response to the report recommendations, received 27 October 2014: Response to the recommendations of Report ref. DG(SANCO)/2013-6953 -MR' (20 March 2015)

<sup>227</sup> European Commission, 'Updated Action Plan received from the Control Body, 5 January 2015: Action Plan submitted by the recognised Control Body in China in response to Report ref. DG(SANCO)/2013-6952 -MR' (11 March 2015)

<sup>228</sup> *P. Krücken Organic GmbH v Commission* (n 32)



control obligations in the organic certification system in the EU. The organic importer claims that the European Commission did not fulfil their obligation to control the private certification body Ecocert SA operating in China according to Art. 33 (3) of the Commission Regulation, which certified the contaminated product as organic. The CJEU dismissed the infringement procedure against the Commission due to a lack of causal relation between the damages suffered and Commission's control activities. Although the judgment concluded that the Commission could not be held liable, the case exposed the control system's fragility.

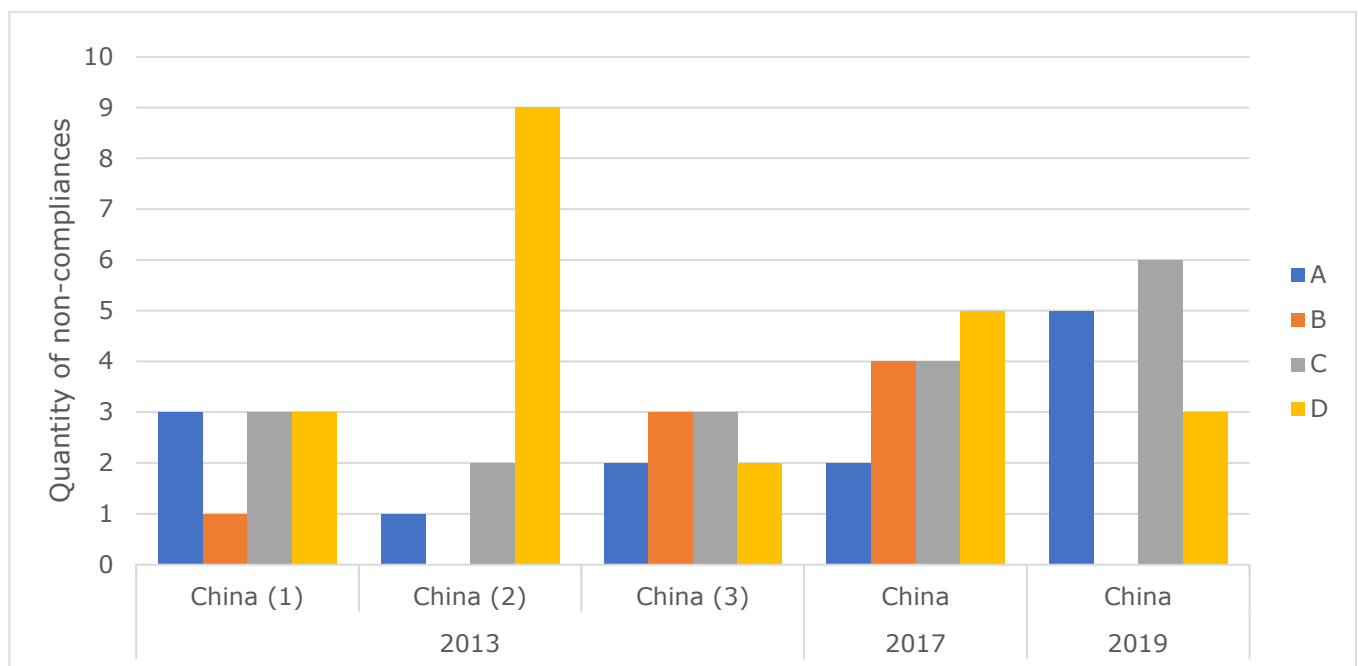


Figure 10: Distribution of non-compliance categories A – D for audit reports from control bodies operating in China in the years 2013, 2017, and 2019.

The following distribution of non-compliance categories for Peru and Bolivia are displayed in figure 11. Compared to other countries, exceptionally are the relatively high numbers of non-compliances in category B, particularly in the year 2016. A reason for this is that the reports from Peru stated many non-compliances regarding producer groups' supervision. One follow-up audit was performed in 2020 at the same CB as in the year 2016. The problems with the supervision of producer groups seem to have been reduced after the first audit.

Nevertheless, a high number of severe non-compliances in category D were identified. Generally, it can be seen that relatively more non-compliances related to the verification of organic production rules were identified than non-compliances related

to procedural aspects (category A and C). Procedural aspects dominate the nature of the identified non-compliance only in 2015 (Bolivia and Peru) and 2019.

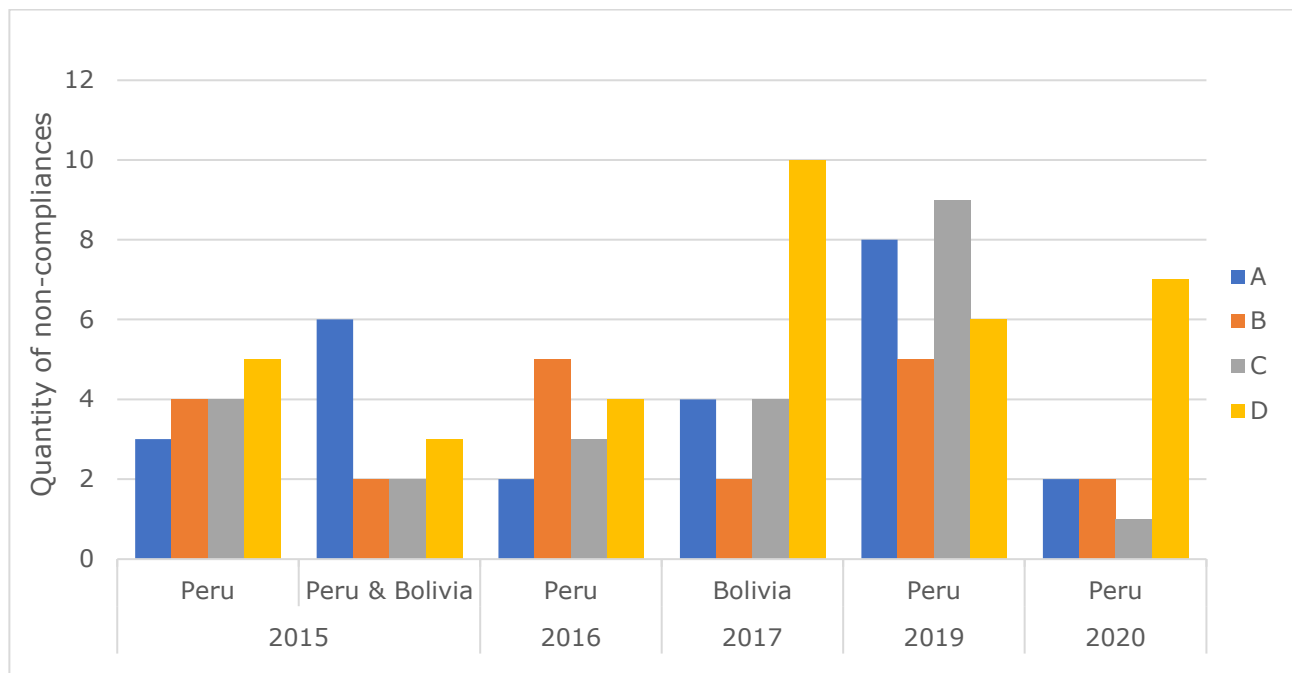


Figure 11: Distribution of the non-compliance categories A – D for audit reports from recognised control bodies operating in Peru and Bolivia in the years 2015 – 2020.

The following country, which was subject to control by the Commission more than once over the data collected, is Turkey. The distribution of the identified non-compliance categories is shown in figure 12. A follow-up audit at the same CB was performed in 2019, and the previous audit took place in 2014. A reduction of non-compliances in the categories A and D can be seen, but non-compliances for all categories were still identified. In conclusion, one can say that the audit positively affected the control activities of this CB, but it was not sufficient to ensure full compliance. The CB inspected was Ecocert SA with the number 154, the same CB as mentioned in the CJEU case *P. Krücken Organic GmbH v Commission* (T-565/18). The other inspected CB in 2017, which could not be identified due to the report's limited information, shows, compared to Ecocert SA, a higher number of non-compliances related to procedural aspects. This being the case illustrates the significance of the differences between CBs and their impact on control activities' success.

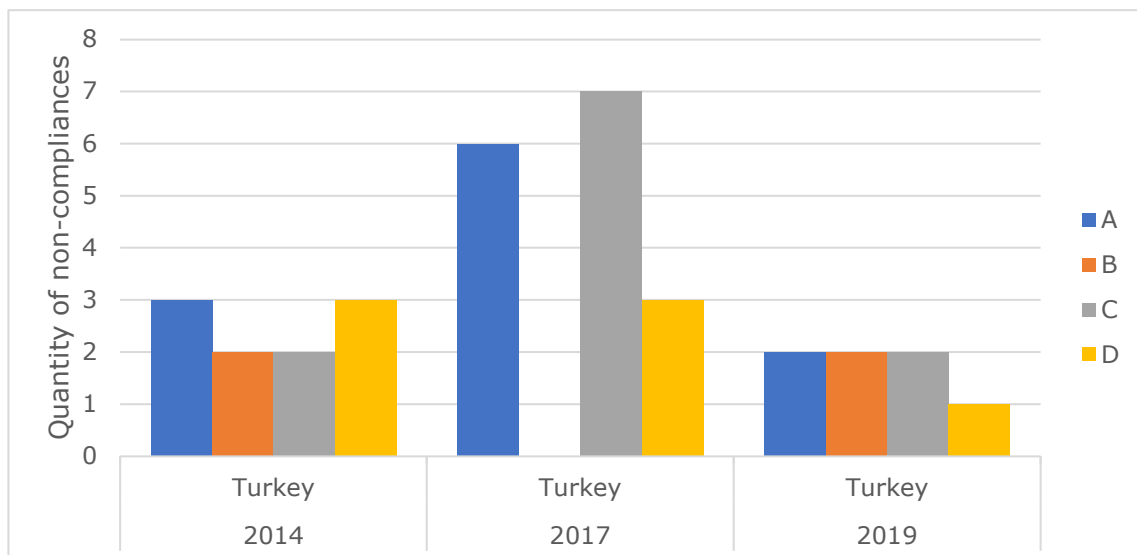


Figure 12: Distribution of the non-compliance categories A – D for recognised control bodies operating in Turkey for the years 2014, 2017, and 2019.

The distribution of the non-compliance categories for Ukraine and Belarus are displayed in figure 13. The audit of 2015 identified several severe non-compliances related to procedural aspects (category C), followed by infringements of category D. In the following year, mostly slight non-compliances allocated in category A were identified, and severe non-compliances related to the verification of production rules. 2018 shows a relatively high number of non-compliances from category B, because the verification of production rules was not thoroughly conducted but without invalidating the products' organic status.

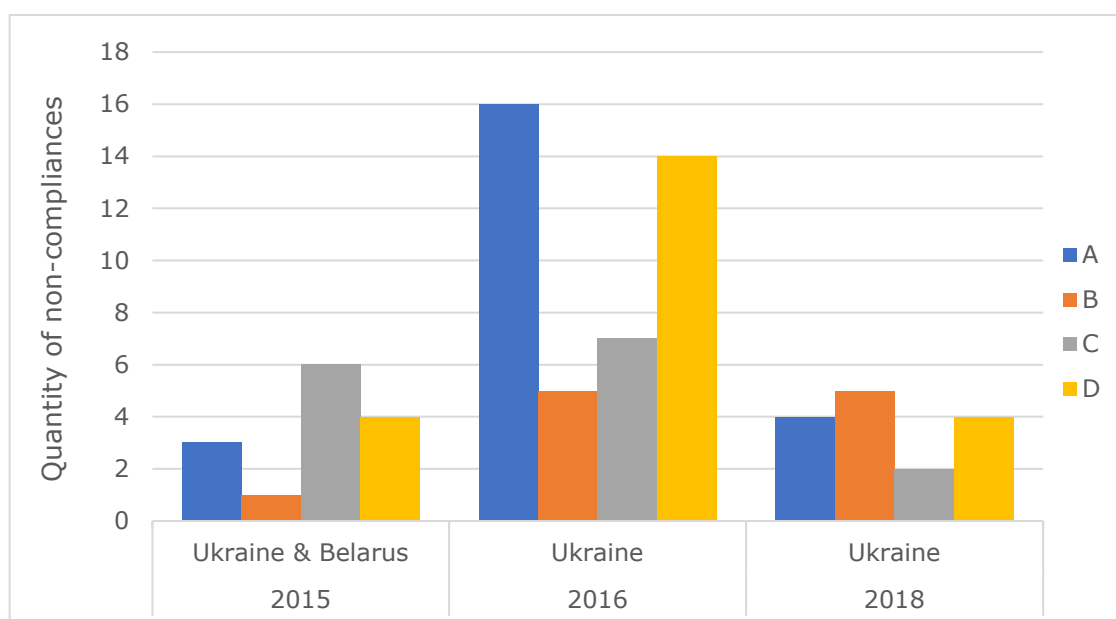


Figure 13: Distribution of non-compliance categories A – D for recognised control bodies operating in the Ukraine and Belarus in the years 2015, 2016, and 2018.

#### **4. A normative analysis of the legal framework on organic certification in third countries**

This thesis's focus is on organic products imported from third countries, which are certified via private control bodies recognised by the European Commission (EC). To ensure that all organic products entering the EU comply with the organic standards enforced in the internal market, the EC conducts audits to evaluate the control systems' reliability established by recognised control bodies in third countries.

In the European Court of Auditors' report in 2019, some weaknesses in the certification system were identified.<sup>229</sup> One example is a low frequency of audits performed by the EC. Furthermore, the audit reports revealed several shortcomings in the documentation, traceability, or labelling requirements. As the report in 2019 from the European Court of Auditors only states general problems in the certification system for imported organic products, the purpose of this master thesis is to pursue a quantitative approach to the empirical analysis of the audit reports issued by the EC to identify specific infringement categories and to evaluate the changes introduced with the new Regulation (EU) 2018/848 which establishes a new basic regulation for organic products, coming into force at the beginning of 2022.

In this chapter, the upcoming organic regulation changes regarding the certification of imported organic products from third countries will be analysed. Therefore, the focus lies mainly on chapters V - VII about certification, official controls, and trade with third countries from Regulation (EU) 2018/848. The results from the previous chapter will be analysed with regard to the identified changes. Possible policy recommendations and strategies for food businesses will be given.

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<sup>229</sup> European Court of Auditors (n 1)

#### 4.1. Changes of the organic legislation with Regulation (EU) 2018/848 addressing identified issues from the previous chapter

Regulation (EU) 2018/848 of the European Parliament and the Council on organic production and labelling of organic products is repealing Council Regulation (EC) No 834/2007, coming into force on 1<sup>st</sup> January 2022.<sup>230</sup> The regulation is structured in nine chapters followed by six annexes specifying production and labelling rules and an example certificate. The first chapter includes the subject matter, scope of the regulation, and definitions. The first Article links the control activities regarding organic certification to the official controls regulation, Regulation (EU) 2017/625.<sup>231</sup> Therefore, the requirements described in chapter VI are *lex specialis* concerning organic controls.<sup>232,233</sup> Article 35 describes detailed rules for the organic inspection certificate.<sup>234</sup> The certificates issued are 'official certificates' under Regulation 2017/625.<sup>235</sup> Furthermore, the organic logo on food labels is qualified as an 'official attestation'.<sup>236</sup>

Article 2 extends the scope of the organic regulation to more agricultural products. The definitions for 'control authority' and 'control body' refer to the definitions laid out in Regulation (EU) 2017/625, without significant changes to the previous definitions from Regulation (EC) 834/2007.<sup>237</sup> The essential annexes of this Regulation regarding

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<sup>230</sup> Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (n 53)

<sup>231</sup> Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) 14 December 2019

<sup>232</sup> Whereas 88 of Regulation (EU) 2018/848: Organic production is subject to official controls in accordance with Regulation (EU) 2017/625. Rules laid down in Regulation (EU) 2018/848 apply additionally to organic production.

<sup>233</sup> Schmidt et al. 'Analysis of Regulation (EU) 2018/848 on Organic Food' (2020) 15(1) European Food and Feed Law Review 2

<sup>234</sup> Art. 35(1) and the Model in Annex VI of Regulation (EU) 2018/848

<sup>235</sup> Article 35(3) of Regulation (EU) 2018/848 and Article 86(1)(a) of Regulation (EU) 2017/625

<sup>236</sup> Article 33(2) of Regulation (EU) 2018/848 and Articles 86 and 91 of Regulation (EU) 2017/625

<sup>237</sup> Points (55) and (56) of Article 3 of Regulation (EU) 2018/848 refer to points (4) and (5) of Article 3 of Regulation (EU) 2017/625.

imports from third countries are Annex V on the organic production logo of the EU and code numbers and Annex VI, which is a model certificate.

#### 4.1.1. Definition of non-compliance

A new definition of 'non-compliance' was presented in Regulation (EU) 2018/848, meaning any non-compliance with the Regulation and delegated or implementing acts.<sup>238</sup> Furthermore, a definition of the 'integrity of organic or in-conversion products' was established, Point (74) of Article 3:

*'integrity of organic or in-conversion products' means the fact that the product does not exhibit non-compliance which:*

*(a) in any stage of production, preparation and distribution affects the organic or in-conversion characteristics of the product; or*

*(b) is repetitive or intentional.*

This definition emphasises the repetitiveness of non-compliances and the intentions of organic operators. Schmidt (2019) showed the importance of the two "or(s)" in this definition: "The "integrity of product" is damaged when (a) the organic product shows that the rules of organic production have not been observed or (b) when they were not observed with intent or (c) in a repetitive manner."<sup>239</sup> The focus on repetitive and intentional non-compliances, rather than on first-time or accidental non-compliances is in line with the findings from the analysis of the non-compliances from the Commission's audit reports because many non-compliances were reoccurring and not mitigated in follow-up audits.<sup>240,241</sup>

In chapter III on production rules, the measures that have to be applied in the case of non-compliance, regarding unauthorised substances are stated in Article 29. Competent authorities must start an official investigation when they suspect products being marketed as organic while being contaminated with unauthorised substances.

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<sup>238</sup> Point (57) of Article 3 of Regulation (EU) 2018/848

<sup>239</sup> Schmidt H. 'Regulation (EU) 2018/848 - The New EU Organic Food Law: War in the Villages or a New Kind of Coexistence' (2019) 14(1) European Food and Feed Law Review 15, p. 14

<sup>240</sup> European Commission, 'Final report of an audit carried out from 12 June 2018 to 20 June 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Ukraine' (n 167)

<sup>241</sup> European Commission, 'Final report of an audit carried out from 26 February 2016 to 08 March 2016 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body in Thailand' (n 135)

<sup>242</sup> During the time of the investigation, both the placing on the market of the products concerned as organic or in-conversion and their use in organic production is prohibited. <sup>243</sup> When investigations last for a long time, it is likely to cause food waste. <sup>244</sup> If the precautionary measures were evaluated as being inadequate, the product permanently loses its organic status. <sup>245</sup> This could be an incentive for operators to comply with the production rules.

#### 4.1.2. Group certification

Requirements for the concept of a producer group or a group of operators are defined in detail in Article 36 (1) of Regulation (EU) 2018/848. The whole group's certification can be withdrawn in the case of an insufficient internal control system with regards to detecting or addressing non-compliances by individual members violating organic production rules. <sup>246</sup> This is a necessary change, as many non-compliances which were identified in the reports from the Commission audits in third countries, regarding producer groups, <sup>247</sup> were related to an insufficient internal control system and the problem that the producer group as a whole was not sanctioned leading to reoccurring non-compliances. <sup>248,249</sup> Still, the challenge of supervision of the internal control system of producer groups remains, which was also identified in the reports as a repetitive non-compliance in different third countries. <sup>250,251</sup>

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<sup>242</sup> Article 29 (1) (a) of Regulation (EU) 2018/848

<sup>243</sup> Article 29 (1) (b) of Regulation (EU) 2018/848

<sup>244</sup> Schmidt et al. (n 233)

<sup>245</sup> Article 29 (2) of Regulation (EU) 2018/848

<sup>246</sup> Article 36 (2) of Regulation (EU) 2018/848

<sup>247</sup> Non-compliances related to producer groups were either categorised in category B or, in the case that the products' organic status was compromised, categorised in category D.

<sup>248</sup> European Commission, 'Final report of an audit carried out from 06 March 2017 to 16 March 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Ecuador' (n 118)

<sup>249</sup> European Commission, 'Final report of an audit carried out from 15 to 25 November 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 142)

<sup>250</sup> European Commission, 'Final report of an audit carried out from 21 to 30 January 2019 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 100)

<sup>251</sup> European Commission, 'Final report of an audit from 11 March 2014 to 20 March 2014 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body operating in Turkey' (n 143)

#### 4.1.3. Hierarchy of non-compliances

Conditions for the delegation of control activities are similarly to Regulation (EC) 834/2007 laid down in Article 40 of Regulation (EU) 2018/848, in accordance with Regulation (EU) 2017/625. Legal consequences for non-compliances, other than those related to unauthorised substances (PPPs), <sup>252</sup> are stated in Article 41 of Regulation (EU) 2018/848. According to Schmidt (2019), this creates a “normative hierarchy of general and special legal consequences of non-compliances”. <sup>253</sup> This differentiation could be due to the fact that analysing final products for the presence of PPPs is the only way to find out whether unauthorised substances were used while producing this specific product. The correct application of all production rules cannot be verified with this method. The only other way of ensuring compliance with the production rules is through supervision of the control system, which was shown not always to be effective when analysing the reports from the Commission’s audits in third countries. Figure 14 shows the differences between the legal consequences for non-compliances related to unauthorised substances and other non-compliances.

Article 41 of Regulation (EU) 2018/848 is the general norm that applies, when there is a suspicion of non-compliance with organic production rules but when facts are uncertain.	Article 29 is <i>lex specialis</i> in relation to Art. 41 that applies when a trace of product is detected in organic produce that would need authorization to be applied in organic production, which has not been authorized for that purpose.
The organic status of the product is lost when the official investigation determines that the noncompliance was intentional or repeated, or when the effect of the non-compliance is evident in the end product	The organic status of the product is lost, when the official investigation determines that there was a lack of preventive measures to avoid the risk of contamination, including contamination from conventional agriculture, with no unauthorized products.

Figure 14: Difference between legal consequences of non-compliances according to Articles 29 and 41 of Regulation (EU) 2018/848. <sup>254</sup>

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<sup>252</sup> Article 29 of Regulation (EU) 2018/848

<sup>253</sup> Schmidt (n 239), p. 11

<sup>254</sup> *ibid*



Article 42 (1) of Regulation (EU) 2018/848 specifies legal consequences in the case of non-compliances affecting the integrity of organic or in-conversion products. Competent authorities must ensure that no reference is made to organic productions in the labelling and advertising of the entire lot concerned.<sup>255</sup> Schmidt (2019) argues that the term 'integrity of product' does not consider whether all production rules were correctly applied, but instead, whether they have not been met, resulting in consequences that can be found in the final product.<sup>256</sup> Possible reasoning behind this is given by Schmidt, as he stated that the term is "probably based on the idea that what does not show in the organic product does not contradict the consumers' rightful expectations".<sup>257</sup> When non-compliances are severe, or repetitive, or a continued non-compliance, competent authorities are required to ensure that operators are prohibited from marketing products that refer to organic production for a given period and that their certificate is suspended or withdrawn.<sup>258</sup> Article 42 of Regulation (EU) 2018/848 replaces Article 30 of Regulation (EC) 834/2007 and removes the terms of irregularities and infringements. The distinction is now based on whether non-compliances affect the product's integrity or if they are repetitive, continued, or serious. As described in the methodology of the previous chapter, the distinction between an irregularity and an infringement was based on the fact of whether the non-compliance is compromising the organic integrity of the product or not. With Regulation (EU) 2018/848, newly introduced is the factor of repetitiveness and the operators' intention, the legal consequences are similar to the former rules.

#### 4.1.4. One standard for all control authorities and control bodies

Additionally, Whereas (97) identified the problem of different applied standards by control authorities and bodies. Therefore, only one standard should be applied by control authorities and bodies, namely the international harmonised standard for 'Conformity assessment – Requirements for bodies certifying products, processes, and services'.<sup>259</sup> The recognition of control authorities and bodies under Article 33 (3) of Regulation (EC) No 834/2007 will expire by 31 December 2024, and the Commission will establish a new list of recognised control authorities and control bodies in an

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<sup>255</sup> Article 42 (1) of Regulation (EU) 2018/848

<sup>256</sup> Schmidt (n 239)

<sup>257</sup> *ibid*, p. 13

<sup>258</sup> Article 42 (2) of Regulation (EU) 2018/848

<sup>259</sup> Article 40 (3) and 46 (2) (d) of Regulation (EU) 2018/848

implementing act.<sup>260</sup> During the analysis of the reports from the Commission, significant differences between control bodies operating in the same third country were observed.<sup>261,262,263</sup> Some control bodies could be identified, and it was found that also leading certification bodies like Ecocert SA showed high numbers of non-compliances.<sup>264</sup> Establishing one standard that has to be followed by all control authorities and control bodies could diminish the differences in the application of control activities between control authorities/bodies.

Furthermore, the Commission is empowered to adopt delegated acts regarding the information to be sent by control authorities, and perform on-the-spot examination.<sup>265</sup> All applications for inclusion in the list of recognised control authorities and control bodies until 17 June 2018 will be evaluated in accordance with Regulation (EC) No 834/2007.<sup>266</sup>

#### 4.1.5. Accreditation

Another new requirement concerns the accreditation of control authorities/bodies. Accreditation can only be granted by a national accreditation body from the EU or by an accreditation body that is part of a multilateral recognition arrangement under the auspices of the International Accreditation Forum.<sup>267</sup> Whereas (94) states that the supervision of control authorities and control bodies has to be reinforced, particularly, the accreditation bodies should be equal to national accreditation bodies in the EU, and the communication with the Commission should be improved.<sup>268</sup> Problems related

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<sup>260</sup> Article 57 (1) and (2) of Regulation (EU) 2018/848

<sup>261</sup> European Commission, 'Final report of an audit carried out in China from 09 to 21 October 2013 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body in China' (n 151)

<sup>262</sup> European Commission, 'Final report of an audit carried out in China from 10 to 23 October 2013 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body in China' (n 192)

<sup>263</sup> European Commission, 'Final report of an audit carried out in China from 14 to 20 October 2013 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body in China' (n 223)

<sup>264</sup> European Commission, 'Final report of an audit carried out from 14 to 24 November 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in China' (n 152)

<sup>265</sup> Article 57 (3) of Regulation (EU) 2018/848

<sup>266</sup> Article 58 (1) of Regulation (EU) 2018/848

<sup>267</sup> Article 46 (3) of Regulation (EU) 2018/848

<sup>268</sup> Implemented in Article 46 (3) and (5) of Regulation (EU) 2018/848

to the accreditation of control authorities and control bodies could be observed, especially in equivalent third countries.<sup>269,270</sup>

#### 4.1.6. Equivalent third countries

The most crucial change of chapter VII is the end of the recognition of equivalent third countries by 31 December 2026.<sup>271</sup> The reason behind the elimination of the concept of equivalent third countries is stated in Whereas (97) and relies on differences between applied rules by the competent authorities in the third countries, which renders those rules as not being equivalent to the EU requirements. After analysing the Commission equivalent third countries' audit reports, more non-compliances related to procedural aspects of the certification process were presented.<sup>272</sup> It is, therefore, legitimate to eliminate the concept of equivalent third countries as many non-compliances were identified, showing that the control systems applied by those countries were not equivalent to the EU system. It is still possible to mutually recognise production rules and the control system of third countries, but solely if there is a trade agreement in place.<sup>273</sup>

Article 45 of Regulation (EU) 2018/848 states requirements for importing organic products from third countries, which are the same as in Article 32 of Regulation (EC) 834/2007. Additionally, requirements are stated that products must be products referred to in Article 2 (1) of Regulation (EU) 2018/848, that operators need to have a certificate confirming that they comply with this regulation and that products have to comply with the trade agreement when imported from countries where a trade agreement is in place.<sup>274</sup> Furthermore, the Commission can adopt implementing acts and specific authorisations for third countries and the outermost regions of the Union.

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<sup>269</sup> European Commission, 'Final report of an audit carried out in Canada from 21 September 2015 to 02 October 2015 in order to evaluate the application of organic production rules and the effectiveness of the control system for organic production' (n 130)

<sup>270</sup> European Commission, 'Final report of an audit carried out in India from 13 April 2015 to 23 April 2015 in order to evaluate the application of organic production rules and the effectiveness of the control system for organic production' (n 129)

<sup>271</sup> Article 48 (1) of Regulation (EU) 2018/848

<sup>272</sup> Relatively more non-compliances allocated to the categories A and C were identified in the reports from equivalent third countries compared to control bodies operating in other third countries.

<sup>273</sup> Article 47 of Regulation (EU) 2018/848

<sup>274</sup> Article 45 (1) (a) and (b) (i) (ii) of Regulation (EU) 2018/848

<sup>275</sup> Moreover, criteria to be taken into for the evaluation of whether a situation qualifies as catastrophic are laid down in Article 45 (3) of Regulation (EU) 2018/848. The requirement for physical checks at the point of entry into the EU is stated in Article 45 (5) of Regulation (EU) 2018/848, and the frequency should be based on the likelihood of non-compliance.

#### 4.1.7. Supervision of control authorities and control bodies

Requirements for the recognition of control activities to control authorities/bodies are set out in Article 46 (2) of Regulation (EU) 2018/848, similar to Article 27 (4) of Regulation (EC) 834/2007. The nature of the supervision by the Commission was defined in more detail compared to the former Regulation, especially in the case of imported products from third countries:

##### Article 32 (2) of Regulation (EC) 834/2007

*The nature of the supervision shall be determined on the basis of an assessment of the risk of the occurrence of irregularities or infringements of the provisions set out in this Regulation.*

##### Article 46 (6) of Regulation (EU) 2018/848

*The nature of the supervision referred to in paragraph 5 shall be determined on the basis of an assessment of the likelihood of non-compliance, taking into account, in particular, the activity of the control authority or control body, the type of products and operators under its control and the changes in the production rules and control measures.*

##### Article 48 (2) of Regulation (EU) 2018/848, supervision of control authorities/bodies in third countries:

*The nature of the supervision shall be determined on the basis of an assessment of the likelihood of non-compliance, taking into account in particular the volume of exports to the Union from the third country concerned, the results of the monitoring and supervisory activities carried out by the competent authority and the results of previous controls.*

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<sup>275</sup> Article 45 (2) and (4) of Regulation (EU) 2018/848

The newly introduced definitions for the nature of the supervisory activities of the Commission give a more detailed picture of the factors influencing the selection of control authorities and control bodies for audits. For control authorities/bodies operating in third countries, the results of supervisory activities carried out by the competent authority and results from previous controls are included in Article 48 (2) of Regulation (EU) 2018/848. This gives the impression that the Commission will focus on taking into account former audits.

While analysing the audit reports from the Commission from the years 2012 – 2020 in chapter 3, follow-up audits of the same control authority or control body were found, having only little effect on mitigating non-compliances, as the numbers of non-compliances did not change significantly.<sup>276,277,278,279</sup> This raises the question as to how effective the process of auditing is in supervising control authorities and control bodies certifying organic products in third countries.

#### 4.2. Problems identified which were not addressed by the new regulation

##### 4.2.1. Subcontracted operators

Chapter V is about the requirement of certifying an organic product to place them on the EU market, similar to title V of Regulation (EC) 834/2007. Article 34 (1) of Regulation (EU) 2018/848 gives competent authorities the ability to delegate control tasks to control authorities/bodies similar to Article 27 (4) of Regulation (EC) 834/2007. An exemption from the certification system is granted for operators that only sell prepacked organic products directly to the consumer, provided they do not

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<sup>276</sup> European Commission, 'Final report of an audit carried out in India from 15 to 26 October 2012 in order to evaluate the application of organic production rules, the effectiveness of the control system for organic production and the supervision carried out by the competent authority' (n 218)

<sup>277</sup> Follow-up audit from audit from 2012: European Commission, 'Final report of an audit carried out in India from 13 April 2015 to 23 April 2015 in order to evaluate the application of organic production rules and the effectiveness of the control system for organic production' (n 129)

<sup>278</sup> European Commission, 'Final report of an audit carried out from 15 to 25 November 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 142)

<sup>279</sup> Follow-up audit from audit from 2016: European Commission, 'Final report of an audit carried out from 27 January 2020 to 06 February 2020 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 121)

produce, prepare, store other than in connection with the point of sale, or import products from a third country, or subcontract such activities to another operator.<sup>280</sup>

Article 34 (3) specifies controls of subcontracted operators compared to Article 28 (1) of the former regulation. Operators subcontracting activities can declare that the responsibility is not transferred to subcontractors. The competent authority, then, may verify subcontractors' compliance only by controlling the operators that have subcontracted their activities.<sup>281</sup> Giving operators the possibility to take full responsibility for the activities of subcontractors without further supervision by control authorities relieves control authorities from performing additional inspections. The operator subcontracting another operator is now responsible for ensuring compliance, increasing the operator's incentive to comply with the production rules or leaving the subcontracted operator outside the control system. While analysing the audit reports from the Commission, subcontracted operators were not included in the inspection planning and were, therefore, not subject to the control system, which led to a loss of traceability.<sup>282,283</sup>

#### 4.2.2. Extension of the period between on-the-spot visits

Chapter VII on official controls and other official activities refers to Regulation (EU) 2017/625 as the basis for organic control activities.<sup>284</sup> In Regulation (EC) 834/2007, basic principles for controls of organic operators were stated in Article 27 (9), which are not included in Regulation (EU) 2018/848, as they are part of Regulation (EU) 2017/625. These principles include inter alia the effectiveness of controls and impartiality of control authorities and inspectors.<sup>285</sup> Furthermore, controls need to be based on a risk assessment, performed without a prior warning and documented.<sup>286</sup> The sampling of products during controls has to comply with EU requirements and

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<sup>280</sup> Article 34 (2) of Regulation (EU) 2018/848

<sup>281</sup> Article 34 (3) of Regulation (EU) 2018/848

<sup>282</sup> European Commission, 'Final report of an audit carried out from 27 January 2020 to 06 February 2020 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 121)

<sup>283</sup> European Commission, 'Final report of an audit carried out from 11 to 22 April 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Albania and Kosovo' (n 107)

<sup>284</sup> Article 37 of Regulation (EU) 2018/848

<sup>285</sup> Article 5 of Regulation (EU) 2017/625

<sup>286</sup> Articles 9 (1) and (4), 12 and 13 of Regulation (EU) 2017/625

must be performed by a designated laboratory.<sup>287</sup> Specific rules applying to the organic certification system are laid down in Articles 38 and 39 of Regulation (EU) 2018/848 and were previously covered under title IV of Regulation (EC) 889/2008. Newly introduced in Article 38 (3) is the possibility to extend the period between physical on-the-spot controls of up to two years, provided that:

- (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.*

This extension of the period between on-the-spot inspections of up to two years seems to be created to relieve pressure from competent authorities, control authorities, and control bodies. Nevertheless, the analysis of the audit reports from the Commission showed many non-compliances regarding the quality of inspections of operators, allocated to category D. Most non-compliances were related to insufficient verification of information provided by operators, off-farm inputs used by operators, traceability, separation of conventional and organic products, the organic status of raw materials, cleaning records, harvest estimations made or the verification of all premises of the operator during inspections.<sup>288,289,290,291</sup> Giving the possibility to not annually inspect operators does not seem to be in line with the findings from the previous chapter.

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<sup>287</sup> Article 34 and 37 of Regulation (EU) 2017/625

<sup>288</sup> European Commission, 'Final report of an audit carried out from 02 March 2015 to 13 March 2015 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 125)

<sup>289</sup> European Commission, 'Final report of an audit carried out from 22 November 2017 to 01 December 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Turkey' (n 127)

<sup>290</sup> European Commission, 'Final report of an audit carried out from 14 to 24 November 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in China' (n 152)

<sup>291</sup> European Commission, 'Final report of an audit carried out in control bodies from 24 January 2018 to 01 February 2018 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in the Dominican Republic' (n 189)

#### 4.2.3. The efficiency of audits performed by the Commission for the supervision of control authorities and control bodies

The remaining question is whether the private third party certification system used for organic products is efficient enough to ensure compliance with EU requirements in third countries. While analysing the Commission's audit reports from the years 2012 – 2020 in chapter 3, follow-up audits of the same control authority or control body were found, having only little effect on mitigating non-compliances, as the numbers of non-compliances did not change significantly.<sup>292,293,294,295</sup> Furthermore, third-party certification audits in the food chain were proven to not be reliable by Albersmeier et al. (2009).<sup>296</sup> The same can be seen for the internal control systems privately established in producer groups and the internal control system's inadequate supervision. Several non-compliances were identified regarding the supervision of the ICS, mainly including a lack of control of the performance of internal inspectors and verification of operators by the CBs.<sup>297,298,299</sup>

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<sup>292</sup> European Commission, 'Final report of an audit carried out in India from 15 to 26 October 2012 in order to evaluate the application of organic production rules, the effectiveness of the control system for organic production and the supervision carried out by the competent authority' (n 218)

<sup>293</sup> European Commission, 'Final report of an audit carried out in India from 13 April 2015 to 23 April 2015 in order to evaluate the application of organic production rules and the effectiveness of the control system for organic production' (n 129)

<sup>294</sup> European Commission, 'Final report of an audit carried out from 15 to 25 November 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 142)

<sup>295</sup> European Commission, 'Final report of an audit carried out from 27 January 2020 to 06 February 2020 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 121)

<sup>296</sup> Albersmeier et al. (n 28)

<sup>297</sup> European Commission, 'Final report of an audit carried out from 06 March 2017 to 16 March 2017 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Ecuador' (n 118)

<sup>298</sup> European Commission, 'Final report of an audit carried out from 26 February 2016 to 08 March 2016 in order to evaluate the application of the organic production standards and control measures applied by a recognised control body in Thailand' (n 135)

<sup>299</sup> European Commission, 'Final report of an audit carried out from 15 to 25 November 2016 in order to evaluate the implementation of the organic production standards and control measures applied by a recognised control body operating in Peru' (n 142)



#### 4.3. Policy recommendations

The total number of audits performed in third countries by the Commission was low. Some countries were inspected more frequently than others, which was due to increased numbers of contaminated products found in the Member States in the case of China.<sup>300</sup> The series of audits in China from 2013 was a reaction of contaminated products. Would a more active approach to the supervision of control bodies operating in third countries with more frequent audits help in ensuring compliance? To go even further, unannounced audits were shown to be more effective than announced audits by Padilla et al. (2013), so more unannounced audits in third countries could facilitate compliance.<sup>301</sup> More employees would be necessary to perform more inspections, and in total, much more funding would be required for the control system. So the next question would be regarding the feasibility of this approach. Another possibility is questioning the private certification system for organic products as a whole and whether public controls would be better. The same question of funding arises here as well.

#### 4.4. Strategies for food companies

The fact that even traces of PPPs can now lead to decertification of the whole lot and lead to a freeze of products during the investigation creates an incentive for operators to comply with the rules, as the price premium of organic products would be lost in the case the products have to be marketed as conventional products or even additional costs can occur when products must be held in storage and have to be destroyed in the case of long-lasting investigations. If the incentive is big enough to ensure compliance throughout the whole supply chain is questionable.

Food producing companies could analyse incoming raw materials, ingredients, and other products for the presence of unauthorised substances as the focus of Regulation (EU) 2018/848 seems to be on traces of PPPs in the final product for consumers, even though it would increase costs. The businesses should make a cost/benefit analysis of the costs for additional tests of raw materials and the potential losses in the case of traces found in products that lead to investigations by competent authorities.

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<sup>300</sup> European Commission, 'Guidelines on additional official controls on products originating from China' (n 150)

<sup>301</sup> Padilla Bravo et al. (n 23)

Furthermore, big food-producing companies could amend contracts with suppliers to include, for example, clauses that suppliers have to compensate losses in the case of contaminated products were delivered.

## 5. Conclusion

This thesis's focus was on organic products imported from third countries, which are certified via private control bodies recognised by the European Commission (EC). To ensure compliance with the production rules and the correct application of control activities, the EC conducted audits to evaluate the control systems' reliability established by recognised control bodies in third countries. The European Court of Auditors identified weaknesses in this certification system.<sup>302</sup> The purpose of this master thesis was to pursue a quantitative approach to the empirical analysis of the audit reports issued by the EC to identify specific infringement categories and to evaluate the changes introduced with the new Regulation (EU) 2018/848, which establishes a new basic regulation for organic products, coming into force at the beginning of 2022.

Findings from the audit report analysis include that relatively more non-compliances related to procedural aspects were identified for equivalent third countries. Consequently, more non-compliances related to the verification of organic production rules were found in control bodies operating in other third countries. In general huge differences between control bodies were shown. The control bodies that could be identified showed that leading certification bodies have the same number of non-compliances as other control bodies.

The analysis of the changes coming with the new organic legislation in 2022 showed that some issues identified in the reports were addressed in Regulation (EU) 2018/848. This includes the possibility of sanctioning a producer group as a whole and not only individual operators or that all control bodies have to apply the same standard issued from the EU, potentially reducing the identified differences between control bodies. Another significant change that is in line with the report analysis findings is that the concept of equivalent third countries was eliminated, and mutual recognition of the production rules and the control system is only possible in bilateral trade agreements. However, not all problems were addressed and solved with the new regulation, as the effectiveness of the supervision of the third-party certification system is questionable. The analysis showed that follow-up audits at the same control body showed unaltered numbers of non-compliances.

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<sup>302</sup> European Court of Auditors (n 1)

To improve the supervision of the control system, more audits with an increased frequency could be used. The feasibility of this option should be assessed. Food businesses themselves could analyse incoming raw materials for traces of unauthorised substances or draw up contracts with their suppliers regarding the responsibility in the case of contaminated products.

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Annex 1: Identified non-compliances from the audit reports of equivalent third countries and the corresponding allocation to a non-compliance category.

Country	Year	Non-compliance	Severity	Type non-compliance	Category
India	2012	No notification of changes to organic standard to COM	0	0	A
		Certification of products originating from another country without COM agreement	1	0	C
		Analytical scope of laboratories too limited	1	1	D
		Wrong labelling of EU logo, wrong CB number	1	0	C
India	2015	Shortage of staff at accreditation body	0	0	A
		Accreditation audits with variety in level of detail and depth	0	0	A
		Minimum requirement of 10% unannounced audits not met	0	0	A
		Common pesticide not tested during sampling	1	1	D
		Analytical methods not suitable for products	1	1	D
		Analytical scope of laboratories too limited	1	1	D
		Transport of samples without temperature control	1	1	D
		Repeatedly detected non-compliances were not respected in risk assessment	1	0	C
		Different categories of non-compliances of CA and CB	0	0	A
		Verification during inspections not sufficient	1	1	D
		Training of farmers in a PG not sufficient	1	1	D
		Export of products without a CoI	1	0	C
		No separation of conventional and organic products	1	1	D
		No labelling of products for export	1	0	C
India	2017	Selection of operators for additional inspections not based on a risk assessment	0	0	A
		Tolerance level for unauthorised PPPs	1	1	D
		Verification during inspections not sufficient	1	1	D
		No sanctions catalogue in place	1	0	C

Country	Year	Non-compliance	Severity	Type non-compliance	Category
India	2017	No set deadline to reply to OFIS notifications	0	0	A
India	2020	Control measures applied by the CB not published	0	0	A
		Checklists used to assess the performance of inspectors not sufficient	0	0	A
		Minimum requirement of 10% unannounced audits not met	0	0	A
		Risk assessment not well defined	0	0	A
		Selection of operators for additional inspections not based on a risk assessment	0	0	A
		New operators previously certified by a different CB have to submit only limited information	0	0	A
		No regular communication between CBs controlling the same operator	0	0	A
		Sampling only of end products, not from raw materials	0	1	B
		Limited number of PPPs tested + tolerance level	1	1	D
		No review of analyses carried out by operators	0	1	B
		List of operators under control of the CB not updated	0	0	A
		Inspectors only take into account the last annual inspection and not the most recent additional inspection	0	1	B
		Verification during inspections not done consistently	1	1	D
		Verification during inspections not sufficient	1	1	D
		Separation of conventional and organic products not verified	1	1	D
		Verification of CoIs issued not sufficient	1	0	C
		Inspectors do not verify correct labelling	1	0	C
		No verification of original documents	1	0	C
		Traceability exercise was not adequately performed	1	1	D
		Checks on consignments not done when ready for shipping	1	0	C
		Standard has not been changed to include amendments of EU legislation	1	0	C
		CoIs could be issued with pending non-compliances	1	0	C

Country	Year	Non-compliance	Severity	Type non-compliance	Category
India	2020	Communication between CBs not sufficient to follow-up OFIS notifications	0	0	A
Costa Rica	2016	Changes in the organic standard were not in line with EU requirements and not notified to COM	1	0	C
		Limited information provided from CB to CA	0	0	A
		Supervision of CA is not adequate to verify all EU requirements are met	1	0	C
		Inspectors were not qualified, which was not noted by CA	0	0	A
		Not all relevant criteria included in risk assessment	0	0	A
		Risk assessment system only identifies low and medium risk operators	0	0	A
		Selection of operators for additional inspections not based on a risk assessment	0	0	A
		Unannounced inspections are carried out with a prior warning	1	0	C
		Relevant information for risk assessment were not provided by operators	0	0	A
		Procedure for risk assessment of PGs was not adequate, not all relevant criteria included	0	1	B
		Selection of operators for sampling not based on risk assessment	0	0	A
		Not all common PPPs included in analytical test scope	1	1	D
		No detailed instructions included in sampling procedure	0	1	B
		CA does not require CB to ensure transportation of sealed samples under temperature control	1	1	D
		Insufficient verification during mass balance calculations	1	1	D
		No declaration of conformity required for issuing CoIs. Not all necessary information from operators are requested	1	0	C
		No procedure for notifying CA in cases of non-conformities	0	0	A
		List of operators includes operators not registered by CA	1	0	C
		Not sufficient verification before granting retro-active recognition of conversion period	1	1	D
		No sampling equipment available during inspections	1	1	D

Country	Year	Non-compliance	Severity	Type non-compliance	Category
Costa Rica	2016	No verification of separation of conventional and organic products and parallel production	1	1	D
		Parallel production takes place, even if not allowed	1	1	D
		No separation of conventional and organic products	1	1	D
		Mass balance calculations were not sufficient	1	1	D
		No review of operator's own checks	0	1	B
		No verification of potential conflict of interest of ICS inspectors	1	0	C
		ICS inspections were not sufficient	1	1	D
		Checklists used by PGs contain not all requirements	0	1	B
		Supervision of ICS inspections with delay	0	0	A
		Checklists used to inspect individual farmers at a PG contained not all requirements. Very limited information to be filled in by inspectors	1	1	D
Israel	2013	Not all standards were notified to COM, no evidence of implementation of all EU requirements	1	0	C
		Transportation of sampled without a seal and temperature control	1	1	D
		Reporting limit set for a substance not authorised by EU	1	1	D
		Imports from other countries not covered in equivalence agreement allowed	1	0	C
		Control system does not ensure that operators are registered for all activities they carry out	1	0	C
		Checklists with limited details	0	1	B
		Recurring shortcomings in labelling were identified	0	0	A
		Parallel production was not identified as a non-compliance by inspector	1	1	D
		No verification of correct dosage of a PPP	1	1	D
		Inspector identified a risk of spray drift, which has never been identified as a non-compliance in previous inspections	0	1	B
		Incomplete declaration of subcontracted operators has not been identified in the previous years	0	0	A
		No verification of separation of conventional and organic products	1	1	D



Country	Year	Non-compliance	Severity	Type non-compliance	Category
Israel	2013	No verification of the need of conventional seeds	1	1	D
		Wrong labelling of EU logo	1	0	C
Israel	2015	Changes made to legislation not notified to COM	0	0	A
Canada	2015	Conformity Verification Bodies without agreement with Canadian Food Inspection Agency	0	0	A
		Auditor's competence was not verified before hiring. Impartiality committee of a CB did not meet the requirements, which was not reported as a non-conformity during previous audits	0	0	A
		CB reaccreditation delayed	0	0	A
		Risk assessment includes not all relevant criteria	0	0	A
		Inspections not planned at the most appropriate time and mainly for primary producers	1	0	C
		Not all planned inspections were carried out	1	0	C
		Sampling not planned at the most appropriate time	1	0	C
		Samples rarely taken in cases of suspicion during inspections	0	1	B
		Deadlines for implementation of corrective actions extended several times. No further actions were taken by CBs	0	0	A
		In cases of positive test results, CBs must notify the operator immediately, which was not done. Additional sampling insufficient	1	1	D
		Huge delays between sampling and notification of non-compliances	0	0	A
		Verification of all premises not sufficient	1	1	D
		Input/output calculations could not be adequately performed by inspectors	1	1	D
		Inspectors did not verify suspicious bags in storage places	1	1	D
		Organic products insufficiently identified and labelled, this was not noted by inspector	1	0	C
		Reply to OFIS notifications delayed	0	0	A
Australia	2014	Not all requirements from EU legislation incorporated in organic standard and changes not notified to COM	1	0	C
		Not all CBs had a Quality Management Manual in line with EN 45011	0	0	A

Country	Year	Non-compliance	Severity	Type non-compliance	Category
Australia	2014	Supervision of inspectors performance without documented procedure	0	0	A
		Low number of additional inspections due to long distances between operators	1	0	C
		Witness audits of CB inspectors could not be carried out due to limited resources of the Export Organic Program	0	0	A
		Recurrent serious non-conformities were identified regarding insufficient evidence provided in inspection reports and procedures for issuing CoIs not in line with EU requirements	1	0	C
		Insufficient follow-up of corrective actions	1	0	C
		CB reapproval based only on questionnaire. This exercise does not meet the definition of an audit	1	0	C
		Minimum target of 5 % of the total number of operators has to be inspected additionally not met. CBs have no procedure in place	0	0	A
		Inspections are always announced	1	0	C
		Not all relevant criteria included in the actually performed risk assessment	0	0	A
		Recurring shortcomings in the satisfactory completion of inspection checklists	0	1	B
		Issuing of CoIs after consignment left the country, inconsistencies in quantities declared in CoI and quantities declared in supporting documents and lack of all relevant supporting documents	1	0	C
		No risk based verification of declarations for issuing CoIs carried out or documented by CB	1	0	C
		CB exported a product where one production step took place under supervision of a CB not recognised by COM	1	0	C
		Traceability checks did not take into account all relevant data	1	1	D
		CBs without a documented sanctions catalogue	0	0	A
		Only few decertification decisions were related to critical or major non-compliances	0	0	A
		Not all organic operators are registered and therefore not subject to the control system	1	0	C
		Operators may be certified by multiple CBs, leading to gaps in certification and inspections	1	0	C

Country	Year	Non-compliance	Severity	Type non-compliance	Category
Australia	2014	Verification during inspections was not sufficient	1	1	D
Argentina	2014	Limited number of visits planned at packaging and processing plants by CA. Shortcomings had therefore not been identified by CA's supervision	1	0	C
		Verification of cleaning not sufficient	1	1	D
		Samples taken by a third party	1	1	D
		Not sufficient sampling equipment available during inspections	1	1	D
		Sampling instruction not sufficient	0	1	B
		Transportation of samples without temperature control, delays up to five days. Samples taken not representative	1	1	D
		Information provided by operators for inspections not available especially in processing plants	0	1	B
		Not all premises visited. Verification of separation of conventional and organic products not sufficient	1	1	D
		Not all relevant information taken into account for mass balance exercises	1	1	D
		Inspector did not note the wrong labelling of conventional products as organic as a non-compliance	1	1	D
		EU organic logo with incorrect information	1	0	C
Switzerland	2013	Yeast, not covered under equivalence recognition was exported to EU	1	0	C
		Communication between local inspection services and CA delayed	0	0	A
		Accreditation audit was only performed in a third country to assess the performance of a CB	0	0	A
		No clear division of tasks among accreditation body and government	0	0	A
		Supervision of CBs not adequate due to different checklists used by accreditation body and government, which are not targeted to assess the effectiveness of the control measures applied by CBs	1	0	C
		Additional inspections not based on risk assessment	0	0	A
		Additional visits announced	1	0	C
		CB did not carry out additional inspections at all	1	0	C

Country	Year	Non-compliance	Severity	Type non-compliance	Category
Switzerland	2013	Time allocated for inspections too limited	1	0	C
		No procedures regarding the analytical scope for testing in place.	1	1	D
		Verification not done during accreditation audits			
		Checks on consignments not carried out for all consignments and on a random basis	1	0	C
		Rarely organic status withdrawn from an operator	0	0	A
		Insufficient investigations of positive test results lead to contaminated products being sold as organic	1	0	C
		Producer certificates without reference to type of product included	0	0	A
		No verification of information provided by operators (supplier certified as organic)	1	1	D
		Inspector did not note the lack of separation of conventional and organic production. Mass balance exercises not sufficient.	1	1	D
		Inspector did not verify production sheets			
		Inspector did not follow-up a non-compliance and the corrective action	1	1	D

Annex 2: Identified non-compliances from the audit reports of recognised control bodies and the corresponding allocation to a non-compliance category.

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Peru	2015	Changes to the organic standard are not notified to the COM	0	0	A
		Supervision of the ICS of PGs was not sufficient	0	1	B
		Not all facilities of PGs are inspected annually	1	1	D
		Operators are informed in advance of unannounced inspections	1	0	C
		Risk assessment does not include all relevant criteria	0	0	A
		No verification of approved PPPs	1	1	D
		Wrong classification of non-compliances	0	1	B
		No updated list of operators is published	0	0	A
		Procedure for the withdrawal of the certificate not always followed	1	0	C
		Necessary documents (contracts, declarations of absence of conflict of interest) not available for ICS inspectors	1	0	C
		No list of sanctioned farmers available at a PG	0	1	B
		No verification of organic status of products possible at members of a PG	1	1	D
		Inspectors did not report deficiencies in the separation of conventional and organic products	1	1	D

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Peru	2015	No separation of conventional and organic products was defined in the OMP of the PG	1	0	C
		Number of inspected farmers was not increased by CB in the case of an insufficient ICS of a PG	0	1	B
		Lack of traceability not detected by inspector	1	1	D
Peru	2016	Evaluation of ICS not adequate	0	1	B
		No verification of use of unauthorised substances, no measures taken against the operator	1	1	D
		Transport of samples without temperature control	1	1	D
		No additional samples taken at a PG, following positive analytical results. Measures taken against individuals but not against PG as a whole	1	1	D
		List of operators under control of the CB not updated	0	0	A
		Inspection checklist not comprehensive enough and doesn't include requirements for the evaluation of the ICS	0	1	B
		No verification of obligation to notify the CB of any change in the status of individual members of a PG.	1	1	D
		No comparison of CB inspections and ICS inspections	0	1	B
		Wrong CB number on the label	1	0	C

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Peru	2016	Issuance of CoIs based on outdated list of PG members	1	0	C
		Not the operator who carried out the last activities on the product on the CoI	1	0	C
		Sanctions from the catalogue were not applied correctly	0	0	A
		Number of members of PG that should be inspected was not increased	0	1	B
		Differences in the enforcement measures applied by PG and CB	0	1	B
Peru	2019	Production rules and control measures not equivalent to EU requirements (even after letter from COM in 2015)	1	0	C
		Incomplete annual report for COM	0	0	A
		Not all relevant criteria included in risk assessment	0	0	A
		Minimum requirement of 10% unannounced audits not met	0	0	A
		Submitted Organic System Plans from operators were incomplete, verification during inspection not possible	0	1	B
		No systematic verification of the Organic System Plans	1	1	D
		Information requested by CB from former CBs of new operators was limited.	0	0	A
		Applications for the retroactive recognition of the conversion period granted without sufficient verification	1	1	D

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Peru	2019	Samples taken during the annual controls, not during additional unannounced inspections	0	1	B
		Only a small number of samples taken in packaging facilities	0	1	B
		Action limit set for unauthorised substances	1	1	D
		Sampling procedure not representative	1	1	D
		No supervision of the sampling procedure from the ICS	1	0	C
		Limited number of PPPs tested	1	1	D
		Several months between CB inspection and ICS inspection of the same operator	0	0	A
		CB inspectors did not adequately evaluate the performance of ICS inspectors	0	0	A
		Verification of documentary checks at PGs not sufficient	1	1	D
		No harmonised evaluation of the ICS	0	0	A
		Verification of labelling not sufficient	1	0	C
		Estimations of harvest made by PGs unrealistic for issuing CoIs	1	0	C
		Traceability proving the organic origin of the product was not possible	1	0	C
		No system ensuring issuance of CoIs is not done for products from suspended operators	1	0	C
		No risk assessment for physical checks before issuing CoIs	1	0	C



Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Peru	2019	Renewal of certification without verification of implemented corrective actions	1	0	C
		No actions taken against PG as a whole	0	1	B
		No non-compliances recorded for failed communication from operators to CB	0	1	B
		Suspension did not lead to a stop in sale of products as organic, root cause could not be identified during investigation	1	0	C
		Delays in replies to follow-up notifications from OFIS	0	0	A
Peru	2020	Shortage of staff at CB, not possible to fully implement the inspection programme	1	0	C
		Risk assessment of individual members of a PG not sufficient	0	1	B
		PG subcontracted operators which were not annually inspected	1	1	D
		Members of PG with bigger plots should be inspected annually from the CB, which was not done	1	1	D
		Granting of retroactive recognition for PG members based on inadequate information	1	1	D
		Sampling only of soil and not of leave/fruit samples	1	1	D
		No guidance on how to take field samples included in sampling procedure	0	1	B

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Peru	2020	Transport of samples without temperature control	1	1	D
		Scope of accreditation of the laboratory did not include glyphosate	1	1	D
		Inspectors did not verify separation of conventional and organic products, the origin of ingredients and incorrect labelling	1	1	D
		CB did not ask for information from another CB to verify a sub-contractor	0	0	A
		CoIs issued for operators not carrying out the last operation	0	0	A
Turkey	2014	Amendments in EU legislation were not incorporated in CB standard	1	0	C
		Risk assessment does not take into account all relevant criteria	0	0	A
		The annual report was incomplete	0	0	A
		Inspector without sufficient sampling equipment	1	1	D
		List of operators under control of the CB not updated regularly	0	0	A
		Inspector noted only some non-compliances identified by the audit team	0	1	B
		Origin of fertilizer not verified	1	1	D
		Labelling of raw materials, products in processing and final products were insufficient	1	0	C

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Turkey	2014	Traceability checks did not take into account all relevant data	1	1	D
		Only individual farmers are sanctioned and not the whole farming project (PG)	0	1	B
Turkey	2017	No procedure for notifying COM in case there are changes made to CB standard	0	0	A
		CB lacks procedures to implement certain control measures	1	0	C
		CB HQ has no timely overview over control activities carried out by branch offices	1	0	C
		Differences in data on control activities submitted to COM and data kept in CB HQ and CB branch office	0	0	A
		No inspection reports available to verify control activities are done	1	0	C
		Not all relevant information have to be submitted from operators before a fixed date	0	0	A
		Risk assessment does not take into account all relevant criteria	0	0	A
		No procedure in place describing the granting of derogations	1	0	C
		Sampling size is not adequate	1	1	D
		Most samples are taken during the annual control and not during additional inspections	0	0	A
		List of operators still includes operators whose contracts had been cancelled.	1	0	C

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Turkey	2017	Verification of buffer zones between conventional and organic plots was not done adequately	1	1	D
		Operators are not required to keep records on off-farm inputs	1	0	C
		No verification of the correct label on the final product	1	1	D
		No risk assessment for physical checks before issuing CoIs	1	0	C
		Former non-compliances are not considered for the risk assessment of operators	0	0	A
Turkey	2019	CB standard was updated with delay to incorporate changes in EU requirements	0	0	A
		Inspectors are required to have up to 6 inspection of farms per day	0	0	A
		The field sampling plan is not efficient	1	1	D
		Recurring non-compliances are detected by inspectors	0	1	B
		Slow follow-up of the inspection findings	0	1	B
		No procedure in place to decide whether the deviation between estimated yield and the actual amount harvested should trigger further investigation	1	0	C
		Issuance of CoIs not done before the shipment has left the country	1	0	C
China (1)	2013	CB certifies a product not covered under the equivalence recognition	1	0	C

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
China (1)	2013	Risk assessment is not supported with a documented procedure	0	0	A
		Inspections are not planned at the most appropriate time. Minimum target of 10% unannounced inspections not met.	1	0	C
		Not all relevant information about the operator were submitted from the former CB	0	0	A
		No counter sample was left at operator. No proper equipment for a temperature controlled transportation was available	1	1	D
		Samples mainly taken from fields, not from processors	0	1	B
		Glyphosate not included in the analytical scope of the laboratory	1	1	D
		CB certifies a group of farmers without an ICS	0	0	A
		Cleaning was not verified	1	1	D
		Follow-up investigations were not sufficient. In case of several irregularities the certificate holder is not sanctioned	1	0	C
China (2)	2013	Measures were not implemented after specific risks had been addressed by the COM	1	0	C
		No representative samples are taken	1	1	D
		Transport of samples without temperature control or proper sealing	1	1	D

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
China (2)	2013	Analytical scope of laboratories too limited	1	1	D
		List of operators not updated regularly	0	0	A
		No verification of seed packages for a granted derogation of use of conventional seeds	1	1	D
		Inspector did not verify the use of unauthorised substances	1	1	D
		Inspectors did not verify harvest estimations and harvest yields	1	1	D
		No verification of use of fertilizers or pesticides	1	1	D
		Mass balance exercise not performed on a representative sample	1	1	D
		Labelling of raw materials and final products were insufficient	1	0	C
		No verification of separation of conventional and organic products	1	1	D
China (3)	2013	Operators do not have to inform the CB at the start of organic production	0	0	A
		No system in place to perform a risk-based inspection at processing stage or at the time loading of containers for export	1	0	C
		Inspectors without proper equipment for taking samples	0	1	B
		Transportation of samples takes too long	1	1	D
		A group of farmers was not officially established as a PG	0	1	B

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
China (3)	2013	No criteria for defining industrial farming was established	0	0	A
		No non-compliances recorded for use of manure without keeping records	0	1	B
		Inspector did not verify conventional plots to ensure that there is not parallel production	1	1	D
		No individual inspection reports available in the ICS	1	0	C
		Follow-up of corrective actions was not verified by inspectors	1	0	C
China	2017	Inspection and sampling not carried out in the most appropriate time	1	0	C
		Dates of internal ICS inspections are not considered while planning of CB's inspections	0	0	A
		Duration of investigation of positive analytical results was variable and lengthy.	0	1	B
		Information provided by the operator was not sufficient and this was not detected as a non-compliance	0	1	B
		The organic management plan was not correctly evaluated by inspectors	1	1	D
		Verification of all production and storage facilities, cleaning protocols and flow charts provided by operators was not sufficient	1	1	D
		No records of cleaning were requested from the inspector	1	1	D

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
China	2017	Possible cross-contamination was not checked by inspectors	1	1	D
		Separation of conventional and organic products not verified	1	1	D
		Inspector advised to keep enough distance between conventional and organic products, without considering airborne contamination (open bags)	0	1	B
		Certification of product categories for which the CB is not recognised in Annex IV of Regulation 1235/2008	1	0	C
		Corrective actions (minor non-conformities) are not verified before the next annual inspection	1	0	C
		No time limits specified for operators to implement corrective actions	1	0	C
		Recurring non-compliances within a PG are only evaluated on a case-by-case basis. PG as a whole is not sanctioned	0	1	B
		OFIS notification deadlines are not respected in the procedure of the CB	0	0	A
China	2019	Branch office was not informed about latest changes in EU legislation	1	0	C
		Specific tasks for issuance of a CoI are not divided between CB HQ and branch office	0	0	A
		Minimum requirement of 10% unannounced audits not met	1	0	C



Country	Year	Non-compliance	Severity	Type of non-compliance	Category
China	2019	Unannounced inspections are carried out with a prior warning	1	0	C
		The risk assessment showed inconsistencies with the inspection planning.	0	0	A
		Not all additional inspections required by COM were carried out	1	0	C
		Operators with a big plot size in a PG had not been annually inspected by the CB	1	1	D
		Transport of samples without temperature control	1	1	D
		Two certificates for one operator available. One with a wrong expiry date	0	0	A
		Risk assessment not based on all relevant criteria	0	0	A
		Lack of record keeping of conventional products on the local market	1	0	C
		Operator failed to inform CB about positive test results for pesticides. Inspector did not record this as a non-compliance	1	1	D
		Decision on issuance of CoIs made by CB HQ, without all relevant information from the branch office	1	0	C
The Dominican Republic	2018	CoIs are issued after the consignment has left the country	0	0	A
		Risk assessment not based on all relevant criteria	0	0	A

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
The Dominican Republic	2018	Not all operators annually visited and the minimum of 10 % additional inspections was not met.	1	0	C
		Number of inspections of PG members was not met	1	0	C
		PG failed to inform the CB that new members were admitted	1	1	D
		CB granted the derogation for retroactive recognition of the conversion period without verification	1	1	D
		New PG members were added to the list of approved PG members without undergoing any conversion period. Recognition of previous periods without evidence	1	1	D
		Sampling planning not based on a risk assessment	0	0	A
		CB requested only multi-residue methods and not the necessary single-residue methods from the laboratory to detect typically used pesticides	1	1	D
		A tolerance level for unauthorised substances is used	1	1	D

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
The Dominican Republic	2018	CB takes long to inform operators about PPP positive test results. No suspension during the investigation	1	0	C
		Not all plots were verified by the inspector	1	1	D
		Inspector identified non-compliances in the ICS of a PG, but the CB had failed to detect these shortcomings in the past 2 years	0	1	B
		Internal ICS inspections are not timed with inspections from the CB	0	0	A
		No systematic control of ICS inspectors	0	0	A
		Label with incorrect CB number	1	0	C
		No procedure to carry out physical checks on consignments intended for export to EU	0	0	A
		No systematic verification of the harvest estimations	1	1	D
		Operators did not inform CB about non-compliant products. No action taken against these operators	1	0	C

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
The Dominican Republic	2018	It took several months to notify the operators of suspension	1	0	C
		CB did not respond in a timely manner to OFIS notifications	0	0	A
		It took more than a year to decertify an operator. CB failed to take appropriate action after the first OFIS notification.	1	0	C
The Dominican Republic	2019	The data submitted in the annual report did not match with data provided by the CB	0	0	A
		Unclear criterion which might allow parallel production of the same plant varieties.	1	0	C
		Minimum requirement of 10% unannounced audits not met	1	0	C
		Group of farmers not considered as PGs	0	1	B
		Limited information from former CB that certified new operator	0	0	A
		Retroactive recognition granted for all PG members without verification	1	1	D

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
The Dominican Republic	2019	Positive analytical results for PPPs did not lead to actions against PG as a whole	0	1	B
		Minimum requirement of 5% samples not met	1	0	C
		Samples taken during the annual controls, not during additional unannounced inspections	1	0	C
		Sampling procedure not representative	1	1	D
		Procedure to evaluate analytical results includes a tolerance level	1	1	D
		Processing factors taken into account for the evaluation of analytical results	1	1	D
		Details of certified products not available for all	0	0	A
		List of operators not updated regularly	0	0	A
		CB accepts label with a different CB number	1	0	C

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
The Dominican Republic	2019	Not all relevant information are requested by the CB for issuance of CoIs	1	0	C
		Verification of harvest estimations not done systematically	1	1	D
		CB does not request amount of conventional products sold	1	0	C
		No risk assessment for physical checks before issuing CoIs	0	0	A
		CoIs issued after consignment left the country	0	0	A
		Delay in suspension of operators	1	0	C
		Lack of reliability of ICS not concluded after investigations	1	0	C
		Procedure for follow-up of critical non-conformities that involve several farmers cannot be implemented by CB	1	0	C
Mexico	2018	Changes to the organic standard are notified to the COM only in annual reports	0	0	A
		Annual report contains information only on operators exporting to EU, not all operators	0	0	A

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Mexico	2018	CB HQ has no timely overview over control activities carried out by branch offices	1	0	C
		Minimum target of 10 % unannounced additional audits not met	1	0	C
		Not all relevant criteria included in risk assessment	0	0	A
		Results of risk assessment not followed by CB	0	0	A
		Evaluation of ICS not adequate	0	0	A
		CB requested only limited information from former CB about the new operator	0	0	A
		Organic Management Plan evaluated without references to EU requirements	0	0	A
		Proof of unavailability of organic seeds not verified	1	1	D
		No written procedure to verify compliance for granting derogations	1	1	D
		Samples taken based on inadequate risk assessment	0	1	B
		Transportation of samples without temperature control	1	1	D
		No guidance on how to take field samples included in sampling procedure	0	1	B
		No single-residue methods requested from CB to laboratory	1	1	D
		No contact point available on website of CB	0	0	A

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Mexico	2018	Timing of CB inspections does not match ICS inspections. ICS inspectors are not observed by CB inspectors	0	0	A
		No risk assessment for physical checks before issuing CoIs. Not all relevant information required from operators by CB	1	0	C
		Tolerance level for unauthorised PPPs	1	1	D
		CB does not follow its sanctions catalogue	1	0	C
Mexico	2019	Annual inspections are not planned in the most appropriate time	1	0	C
		Not all relevant criteria included in risk assessment	0	0	A
		Same weighting for all criteria in risk assessment	0	0	A
		Minimum requirement of additional unannounced audit at 10 % of the operators not met	1	0	C
		Not all high risk operators are selected for additional unannounced audits	1	0	C
		Almost all operators additionally visited were categorised as medium risk operators	0	0	A
		Not all relevant information requested from former CB	0	0	A
		Internal ICS inspections not sufficient	0	0	A
		No verification for granting of derogations	1	1	D
		Sampling based on inadequate risk assessment	0	1	B



Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Mexico	2019	Sampling forms did not include all relevant information	0	1	B
		Sampling procedure not representative	1	1	D
		The list of operators is not regularly updated.	0	0	A
		Inspections not planned at the most appropriate time	1	0	C
		Inspector did not verify all premises, conduct a harvest estimation, verify correct labelling	1	1	D
		ICS inspections not effective	0	1	B
		CB procedure does not require full calculations of input and output at operators	0	1	B
		Estimations of harvest not reliable, no quantities of conventional products requested. PG members delivering the product not checked if they are approved	1	1	D
		CoIs not always issued for operator who carried out the last operation	0	0	A
		No risk assessment procedure for physical checks in place	0	0	A
		Sanction catalogue not sufficient	1	0	C
		Inspectors classify non-compliances as minor instead of major	1	1	D
		Operators are not required to submit evidence of corrective actions implemented	1	0	C

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Mexico	2019	Only individual farmers are sanctioned and not the whole PG	0	1	B
Paraguay	2018	Not all relevant criteria included in risk assessment	0	0	A
		Not all high risk operators are selected for additional unannounced audits	1	0	C
		Not all information provided from previous CB	0	0	A
		Internal ICS inspections not sufficient	1	0	C
		No verification for granting of derogations	1	1	D
		No verification for granting of derogations for the PG as a whole	1	1	D
		Sampling forms did not include all relevant information	0	1	B
		Sampling procedure not representative to conclude on possible causes of unauthorised substances	1	1	D
		Analytical scope of laboratories not always accredited	1	1	D
		List of operators not updated regularly	0	0	A
		Verification during inspection not sufficient	1	1	D
		Wrong label used for several years without being detected as a non-compliance	1	0	C
		Mass balance exercise procedure does not take into account all relevant data	1	1	D
		No actions taken against PG as a whole	0	1	B
		OFIS notification deadlines are not respected in the procedure of the CB	0	0	A

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Ukraine & Belarus	2015	CB standard not notified to COM. Incorrect annual report.	0	0	A
		Shortage of staff at CB	0	0	A
		Risk assessment not implemented	1	0	C
		Minimum target of unannounced additional audits at 10% of the operators not met	1	0	C
		Report not sent in a timely manner	0	0	A
		Number of granted derogations was not correct	0	1	B
		Derogations for the use of conventional seeds can be granted during inspections (after sowing)	1	1	D
		Transportation of samples without temperature control	1	1	D
		Subcontracted operators are not included in the list of operators under control of the CB	1	0	C
		List of products of an operator did not match the list of products on the certificate	1	0	C
		Lack of verification of separation of organic and conventional products and subcontracted activities	1	1	D
		Critical control points at processors were not identified and preventive measures not put in place	1	1	D

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Ukraine & Belarus	2015	No actions taken after positive analytical results	1	0	C
		Insufficient measures were taken after positive analytical results with delay. Product has been exported to EU	1	0	C
Ukraine	2016	Changes in CB standard was not notified to COM	0	0	A
		Inaccuracies in annual report	0	0	A
		Repetition of shortcomings identified by AB	0	0	A
		Communication between offices of the CB not sufficient	0	0	A
		Inspectors have no sufficient knowledge of the local language	0	0	A
		Information in inspection reports limited. Supervision of inspectors by CB, therefore, not effective	0	0	A
		New procedure for inspection report not consistently applied	0	0	A
		Not all relevant criteria included in risk assessment	0	0	A
		Additional controls mainly in one non-EU country (branch office), rarely additional controls in the other countries	1	0	C
		Unannounced inspections are carried out with a prior warning	1	0	C
		Inspections not adequately planned due to limited information provided by operators	0	0	A

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Ukraine	2016	Planning of inspections not at the most appropriate time	1	0	C
		Delayed submission of information provided from operators	0	0	A
		Limited information from former CB that certified new operator	0	0	A
		Inconsistent approach to subject plots to conversion period	0	1	B
		Operators were certified without further actions which formerly were certified by a CB not recognised by COM	1	0	C
		Verification of off-farm inputs not sufficient	1	1	D
		Verification of raw materials and other inputs not sufficient	1	1	D
		Operators did not apply for any derogations until April 2016	1	1	D
		Verification of untreated seeds not sufficient	1	1	D
		Transportation of samples without temperature control (several days)	1	1	D
		Samples not taken at the most appropriate time	1	1	D
		CB does not control sampling conducted by a third party	0	1	B
		List of operators does not include all necessary information	0	0	A

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Ukraine	2016	Not all checkpoints were described in the inspection report. No sufficient verification done	1	1	D
		Deadlines set for inspection reports do not stipulate shorter deadlines in cases of severe non-compliances	1	0	C
		Due to incomplete data provided by operators most of the inspection time was used to complete these data instead of verification	0	1	B
		CB accepts estimations of harvest yields made by operators	0	1	B
		CB does not require records of quantities of products held in storage	0	1	B
		CB does not request quantities sold to other destinations than the EU	1	1	D
		Statements made by operators were not cross-checked	1	1	D
		No verification of organic status of inputs	1	1	D
		No records are required by CB about the sales of conventional products from buffer zones	1	1	D
		Separation of conventional and organic products not verified, no record keeping required	1	1	D
		No records of the storage place of inputs available. No traceability possible. No non-compliance detected by CB	1	1	D

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Ukraine	2016	No physical checks before consignment is exported. No requirement of a declaration that product was produced according to EU requirements	1	0	C
		CoIs usually issued not for the operator who conducted the last operation	0	0	A
		CoIs issued for exporter based in a country not recognised by COM	1	0	C
		Inconsistencies in the application of sanctions	0	0	A
		Tolerance level for unauthorised PPPs	1	1	D
		Follow-up of OFIS notifications not adequate	0	0	A
		Delay in reply to OFIS notifications	0	0	A
Ukraine	2018	Risk assessment includes not all relevant criteria	0	0	A
		Control plan could not easily be evaluated	0	0	A
		No records of rejected applications for granting of derogations. Verification of compliance largely based on recommendations from inspectors	0	1	B
		Maximum time that can be granted in retroactive recognition was exceeded, without proper verification	1	1	D
		Sampling strategy not clear. Minimum requirement of sampling of 5% of high risk operators could not be verified	1	1	D

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Ukraine	2018	Recurring non-compliances without proper action from CB	0	0	A
		Not all relevant information used to calculate harvest estimations	0	1	B
		Unclear instructions on how to deal with exceptional factors for input/output calculations	0	1	B
		CB does not take into account all products sold (not to EU) from an operator for the harvest estimations and verification	0	1	B
		Consignments can be traced back to operators but not to a specific plot	1	1	D
		Local conditions are not taken into account for harvest estimations/yields. CoIs are therefore issued based on harvest estimations instead on actual harvest	1	0	C
		Verification of corrective actions only done during the next annual inspection	1	0	C
		Tolerance level for unauthorised PPPs	1	1	D
		Investigations on positive analytical results do not include on-site visits	0	0	A
Kenya	2018	Laboratory results are evaluated by a third party	0	1	B
		Inspector has no sufficient knowledge on local language. Inspectors performance was weak.	0	1	B
		Third-party inspectors not covered under conflict of interest policy	1	0	C



Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Kenya	2018	Risk assessment without documented criteria taken into account	0	0	A
		Inspections are carried out mostly during harvest season and not during growing season	1	0	C
		ICS inspections and CB inspections are not done in the same time frame	0	0	A
		Verification of PPPs and fertilizers was not sufficient	1	1	D
		CB standard for granting of derogations is not completely implemented	0	1	B
		Sampling is done mostly during harvest season and not during growing season	1	1	D
		Not all CB requirements on sampling are respected during on-site inspections	0	1	B
		Necessary sampling equipment was not available	0	1	B
		Not all relevant information are included in the sampling form	0	1	B
		Transportation requirements for samples cannot be met in the country. Huge delay in sending samples to CB HQ/laboratories. No defined deadline in sampling procedures	1	1	D
		Scope of accreditation of the laboratory did not include all relevant PPPs. Differences in the analyses recommended by CB and actual analyses performed.	1	1	D

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Kenya	2018	No systematic verification during inspection because inspector did not use checklists and work instructions	0	1	B
		Focus of the audit only on organic production, without verifying conventional production at the same operator	1	1	D
		Verification of all premises not sufficient	1	1	D
		Verification of off-farm inputs insufficient	1	1	D
		Maps provided by operators do not include all necessary information	0	0	A
		Verification of separation of conventional and organic products/plots was not sufficient	1	1	D
		Samples were not taken from all relevant aspects of production	1	1	D
		Correct doses of PPPs applied to fields was not verified	1	1	D
		Inspector did not take into account all relevant information for the verification of the harvest estimation/yields	1	1	D
		Supervision of inspectors by CB HQ was not effective, due to limited information in the inspection reports	0	0	A
		Inspector did not note the absence of any traceability reference on the labels of organic products	1	0	C

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Kenya	2018	No risk based physical checks of consignments before issuing CoIs are performed	1	0	C
		Not all relevant information are taken into account when estimating quantities that can be exported. Operators are not required to notify the CB of quantities to other markets	1	0	C
		Tolerance level for unauthorised PPPs	1	1	D
Sri Lanka	2017	Not all EU requirements are incorporated in CB standard	1	0	C
		Not all relevant criteria included in risk assessment	0	0	A
		Annual report was inaccurate	0	0	A
		Verification of off-farm inputs not sufficient	1	1	D
		No systematic check is done for granting of derogations. CB relies on declarations received by ICS	0	1	B
		A derogation was accepted for the use of conventional propagating material without having been granted/verified by the CB	1	1	D
		Operators have to give a declaration about not using GMOs. This is not verified	1	1	D
		Annual sampling plan not based on risk assessment	1	0	C
		Relevant PPPs are not included in the accreditation scope of the laboratories	1	1	D

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Sri Lanka	2017	Laboratory choose the scope of analysis without CB being involved	0	1	B
		Not all relevant information are included in the sampling form	0	1	B
		No direct user friendly approach to obtaining a list of operators on CB website	0	0	A
		For the assessment of the 95% organic ingredient requirement a single crop product (tea) was chosen by inspectors	1	1	D
		CB inspector did not adequately verify the origin of incoming products	1	1	D
		CB inspectors did not prepare individual inspection reports for the farmers visited at a PG	0	1	B
		Interaction between ICS inspectors and CB inspectors not sufficient	0	0	A
		CB inspector did not verify separation of conventional and organic products	1	1	D
		Mass balance exercise not performed on a representative sample	1	1	D
		No evidence of operators being decertified	1	0	C
		No systematic approach to handling complaints to investigate the root cause. No corrective action implemented	1	0	C
		Withdrawal of certification at PG level is not possible	1	1	D
		PG is not sanctioned as a whole	0	1	B

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Sri Lanka	2017	Follow-up of OFIS notifications not adequate	0	0	A
Peru & Bolivia	2015	The Weighting of criteria is the same in risk assessment	0	0	A
		Not all relevant criteria included in risk assessment	0	0	A
		ICS inspections are not as effective as CB inspections	0	0	A
		Transportation of samples not temperature controlled and can take up to several days	1	1	D
		No additional samples taken at a PG, following positive analytical results.	0	1	B
		Information about operators certified by CB incorrect and not comprehensive on website	0	0	A
		CB inspectors failed to note ineffective ICS. PG without written procedure for the absence of conflict of interest	1	1	D
		Verification done by ICS inspectors not sufficient	1	1	D
		Recurrent shortcomings in the performance of ICS inspectors did not lead to evaluating the competence of ICS inspectors and the effectiveness of the ICS	1	0	C
		The wrong operator was included in the CoI (operator who has not performed the last operation)	0	0	A

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Peru & Bolivia	2015	Inconsistencies in the application of sanctions	0	0	A
		Performance of ICS inspectors and positive sampling results are not taken into account in the assessment of the effectiveness of the ICS	1	0	C
		No action is taken against PGs as a whole	0	1	B
Bolivia	2017	No guidance for inspectors on how to do an inspection	0	1	B
		Inspectors perform official inspections without witness audits before that	0	0	A
		Limited information provided by operators for a proper preparation of inspections	0	0	A
		Operators are not selected for additional inspections based on a risk assessment	1	0	C
		Inspections and sampling not carried out at the most appropriate time	1	0	C
		Verification of off-farm inputs not sufficient	1	1	D
		Samples taken only in cases of complaints or previous positive results	1	1	D
		Samples are not taken in the most appropriate period (stored products tested with 1 year delay)	1	1	D
		CB does not require laboratories to be accredited and does not verify the scope of analyses	1	1	D

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Bolivia	2017	List of operators does not include all necessary information and is not updated regularly	0	0	A
		Inspectors not familiar with checklists and organic standard.	1	0	C
		Not all premises visited. Verification of separation of conventional and organic products not sufficient	1	1	D
		Information provided by operators was not sufficiently verified by inspectors. Estimation of harvest was not carried out	1	1	D
		Inspectors did not note shortcomings in the performance of the ICS	1	1	D
		Inspection by ICS inspectors were superficial. Verification was not sufficient. Ineffective performance was not evaluated by CB inspectors	1	1	D
		Traceability exercise was not adequately performed	1	1	D
		No physical checks before consignment is exported	1	0	C
		Tolerance level for unauthorised PPPs	1	1	D
		No action is taken against PGs as a whole	0	1	B
		CB did not respond in a timely manner to OFIS notifications	0	0	A
Ecuador	2017	Annual report was inaccurate	0	0	A

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Ecuador	2017	Not all relevant information are requested by CB from operators and inspections are not planned at the most appropriate time	1	0	C
		Information provided by operators only a few days before the inspection was planned. Doesn't allow proper planning	0	0	A
		Not all relevant criteria included in risk assessment	0	0	A
		Evaluation of ICS is not documented and no evidence that this is factored in risk assessment	0	0	A
		Additional inspections mainly done to follow-up of non-compliances and not based on risk assessment	0	0	A
		Only limited information requested from former CB	0	0	A
		Verification of off-farm inputs done by third-party and therefore not sufficient	0	1	B
		Equipment used for sampling not sufficient.	1	1	D
		Second analyses were not carried out to verify PPP contamination	0	1	B
		No formal contact point established on CB website	0	0	A
		Inspectors did not require verification of organic purchases by operators	1	1	D



Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Ecuador	2017	CB does not require verification of products harvested from buffer zones. CB accepts copies instead of original documents	1	1	D
		Inspectors do not adequately assess non-compliances found at PGs	1	1	D
		Incorrect risk classification of PGs	0	1	B
		No verification of correct labelling (wrong CB number)	1	0	C
		Exporters are not required to submit a declaration that the product has been produced according to EU requirements.	1	0	C
		Certification granted without evidence of implementation of corrective actions	1	0	C
		Delayed reply to OFIS notifications	0	0	A
Brazil	2017	Not all relevant criteria included in risk assessment	0	0	A
		Evaluation of ICS is not adequately taken into account of the risk assessment	0	0	A
		Evaluation of effectiveness of ICS not sufficient	0	0	A
		Inspections with prior warning	1	0	C
		Verification of off-farm inputs not sufficient	1	1	D
		Selection of operators for sampling not based on risk assessment	0	1	B
		Transportation of samples without temperature control	1	1	D

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Brazil	2017	List of operators not accurate and not properly updated	0	0	A
		Verification of precautionary measures not sufficient	1	1	D
		Parallel production is allowed under certain conditions	1	1	D
		Capability of internal ICS inspectors not sufficiently evaluated	0	0	A
		PG not legally constituted (no catalogue of measures in cases of non-compliance)	1	1	D
		Incorrect CoIs issued (not with operator who carried out the last operation)	1	0	C
		CB did not require a declaration that products were produced in accordance with EU requirements from exporters	1	0	C
		No actions taken against PG as a whole	0	1	B
		Systematic problem in replying to OFIS notifications	0	0	A
Albania & Kosovo	2016	Subcontracted operators are not subject to annual controls	1	0	C
		No documented evidence for risk assessment decisions	1	0	C
		No individual inspection reports available for subcontractors	1	0	C
		Risk assessment of subcontractors and pickers not sufficient	0	0	A

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Albania & Kosovo	2016	Control plan could not easily be evaluated. Not all additional controls were unannounced	1	0	C
		Uniform application of risk evaluation could not be verified	0	0	A
		Information from previous CB was not verified and no actions were taken against the operator after recurring shortcomings were identified	0	0	A
		Derogations for the use of conventional seeds can be granted during or after sowing season	1	1	D
		Verification of retro-active recognition of the conversion period not sufficient	1	1	D
		No procedure in place on how to deal with areas contaminated with non-authorised substances	1	0	C
		Sampling plan did not take into account high risk crops	0	1	B
		Sampling procedure not adequate enough to avoid contamination during the sampling process	1	1	D
		Sample size not based on actual amount of products in a consignment (not representative)	1	1	D
		Investigations on positive analytical results in wild plants could not identify the source of contamination	0	1	B

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Albania & Kosovo	2016	Subcontractors are not included in the list of operators published by CB	0	0	A
		Checklists used by inspectors are not up-to date	0	1	B
		Not all relevant information provided by operators before inspections	0	0	A
		Estimated quantity of collection of wild plant species could not be verified due to lack of documentation. Authorisation to collect from national government expired. Operators were still collecting in those areas	1	1	D
		No records were available to verify that the collection areas were not treated with PPPs.	1	1	D
		No actions were taken against operators after recurring shortcomings	1	0	C
		Inspector included new processing activities in scope of inspections without verification with supporting documents prior to the inspection	1	0	C
		No verification of maps of collection areas and the availability to pickers	1	1	D
		No verification of unauthorised substances	1	1	D
		No verification of products stored and their separation to conventional products	1	1	D

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Albania & Kosovo	2016	Recurrent incomplete records of cleaning	1	1	D
		Wrong label	1	0	C
		Conventional products labelled as organic. No actions taken by CB	1	0	C
		No actions taken against operators after recurring shortcomings in labelling	1	0	C
		Impossible to track products back to collection areas due to lack of documentation	1	1	D
		Lack of records had not been recorded in previous inspections	0	1	B
		Inspector did not identify shortcomings in storage conditions and separation of conventional and organic products (lack of labels)	1	1	D
		Verification of harvest estimations not done sufficiently	1	1	D
		Inspector did not identify non-compliance of systematically higher weights of consignments on the label than the actual weight	1	1	D
		CB did not identify that more products were exported as organic than the total quantity collected	1	1	D
		Procedure for issuance of CoIs is not up-to date	0	0	A

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Albania & Kosovo	2016	Procedure for issuance of CoIs does not include a systematic way of obtaining information from operators and how to verify information	0	0	A
		Verification of implementation of corrective actions not sufficient. No actions done in cases of recurrent non-compliances	1	0	C
		Certification possible even if non-compliances are not remedied	1	0	C
		Follow-up of use of unauthorised substances was not sufficient	1	0	C
		Tolerance level for unauthorised PPPs	1	1	D
		Decertification only of batches and not the whole plot of land	1	0	C
		No actions were taken because of traceability shortcomings	1	0	C
		Decertification of a product after several months after notification. No additional samples taken and root cause not identified.	1	0	C
Thailand	2016	Annual report incorrect	0	0	A
		Delays in processing inspection reports and issuing certificates due to lack of staff. Procedures on certification, sanction and withdrawal of certification cannot be implemented appropriately	1	0	C

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Thailand	2016	Supervision of inspectors without documentation	0	0	A
		Risk assessment does not include all relevant criteria. Additional inspections are not planned based on risk assessment	0	0	A
		Required minimum number of members of a PG not inspected. Members selected randomly, not based on a risk assessment	1	1	D
		Inspections are not planned at the most appropriate time	1	0	C
		Derogations granted did not match notified numbers in annual report	0	0	A
		Non-accredited laboratory used for testing of samples	1	1	D
		No samples were taken even in the case of suspicion	1	1	D
		No sampling equipment available during inspections	1	1	D
		Information provided in the list of operators under control was incorrect	0	0	A
		Information provided by operators was incomplete and outdated, even though the operator has been certified for several years	0	0	A
		Information provided by operators was not verified sufficiently	1	1	D

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Thailand	2016	Verification of seeds, fertilizers, neighbouring fields and harvest estimations were not sufficient	1	1	D
		No verification of production differences between harvest seasons	1	1	D
		No on-the-spot verification of internal inspection records at PGs	1	1	D
		Several shortcomings related to labelling did not lead to actions by CB	1	0	C
		Incorrect labelling of raw materials leads to insufficient traceability	1	0	C
		Recurring absence of transaction certificates did not lead to further action by CB	1	0	C
		Verification of records of raw materials and cleaning products not sufficient	1	1	D
		Verification of input/output for production was not sufficient	1	1	D
		No documented procedure for issuance of CoIs	0	0	A
		Declaration that consignment was produced in accordance with EU requirements not included in application form for issuing CoIs	1	0	C
		CoIs issued after consignment left the country and based on documentary checks only (no physical checks performed)	1	0	C



Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Thailand	2016	CoIs not originally signed, but signature copied into documents. Serial number not correct	0	0	A
		CoIs issued for products produced in a country out of scope of CB	1	0	C
		No procedure for cancellation or replacement of transaction certificates	0	0	A
		No verification of quantity of products produced or purchased by operators and the quantity of products already sold	1	1	D
		No catalogue of measures for cases of irregularities which would affect the organic status of products	1	0	C
		Rarely other sanctions than additional inspections applied by CB. Non-compliances identified were reported as compliant in reports. No corrective actions requested	1	0	C
		No verification of products in storage area after suspicion.	1	1	D
		No sufficient investigation of OFIS notification. No reply in OFIS	0	0	A
South Africa	2015	Recurring positive analytical results did not lead to further investigations. Operator classified as low risk	1	0	C
		CB standard not notified to COM	0	0	A
		Annual report incorrect	0	0	A

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
South Africa	2015	Minimum target of 10 % unannounced additional audits not met. This requirement is not reflected in CB procedures	1	0	C
		Additional inspections not based on risk assessment	0	0	A
		Sampling not based on risk assessment	0	1	B
		Consignments have been shipped to EU without notifying CB. Operator was not aware of this requirement. Inspector did not notice this non-compliance	1	0	C
		No written instructions in case of detection of residues. No actions are taken in cases when the residue detected is below a limit	1	0	C
Vietnam	2014	Low number of staff	0	0	A
		Severe non-compliances were not used in risk assessment	0	0	A
		PGs did not comply with the requirements of being small farms. The large farms were not annually inspected. No non-compliance was noted by inspectors	1	1	D
		No procedure in place on how to proceed with inspection reports issued in CB HQ. No deadlines in place.	0	0	A
		System of evaluation of inspectors performance not sufficient	0	0	A

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Vietnam	2014	CB allows the use of unauthorised substances (incorrectly applied EU provisions)	1	0	C
		CB allows the use of conventional juvenile shrimps and pangasius exceeding the limits laid down by the CB	1	0	C
		No samples were taken in Vietnam due to lack of national accredited laboratories and transportation problems. New sampling plan still insufficient	1	1	D
		Suspended operators still included in the list of certified operators	1	0	C
		Not enough time allocated for each inspection	0	0	A
		Inspectors did not immediately inform CB about major non-compliances	1	0	C
		Risk assessment for PGs not sufficient. Management plans were not focused on organic requirements.	1	1	D
		No risk-oriented verification of the credibility of the operator's declaration of compliance included in the procedure for issuing CoIs	1	0	C
		System for issuing CoIs not sufficient	0	0	A
		Deadlines not included in sanctions catalogue, leading to delayed application of sanctions	1	0	C

Country	Year	Non-compliance	Severity	Type of non-compliance	Category
Vietnam	2014	PGs failed to report non-compliances. Enforcement by PG management was weak, no farmers were sanctioned yet. Recurring non-compliances	1	1	D
		Delayed suspension of PG members, leading to products being sold as organic even when severe non-compliances occurred	1	1	D
		Processor and exporter (also part of PG) continued selling products as organic even after being informed about the suspension of certification of PG farmers. This has not been detected by ICS inspectors and CB inspectors.	1	1	D