



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT  
Directorate H - Sustainability and Quality of Agriculture and Rural Development  
H.3. Organic farming

Brussels,

Dear ,

Thank you for your e-mail dated.....and the relevant enclosed letter...asking for a reply to five questions. A translation of this letter into....will be sent to you as soon as possible.

I will give certain elements of reply to the concerns you raise, referring to the relevant EU legislation. However, you must know that the Court of Justice is alone qualified to come to a conclusion in a legally binding way about the validity and the interpretation of the acts adopted by the Community Institutions.

Two of the questions raised in your letter, namely nr. 1 and 5, are mainly about Competent Authority approval of control bodies according to Council Regulation (EC) No 834/2007 of 28 June 2007<sup>1</sup> on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91<sup>2</sup>.

Three questions, in particular, nr. 2, 3 and 4, are about the accreditation system in place in.... with reference to Regulation (EC) No. 765/2008 of the European parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93<sup>3</sup>.

I will refer to the above mentioned Regulations and also to Commission Regulation (EC) No 889/2008 of 5 September 2008 which lays down detailed rules for the implementation of Council Regulation (EC) No 834/2007<sup>4</sup>.

Firstly, as regards the delegation of control tasks, par. 5 of Art. 27 of Council Regulation (EC) No 834/2007 specifies that the competent authority may delegate control tasks to a

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<sup>1</sup> OJ L 189, 20.7.2007, p.1.

<sup>2</sup> OJ L 198, 22.7.1991, p. 1

<sup>3</sup> OJ L 218, 13.8.2008 p.30

<sup>4</sup> OJ L 250, 18.9.2008, p.1

particular control body where a number of conditions from (a) to (e) are satisfied. In particular, in par. 5 point ( c ) of the above mentioned Article it is specified that the control body must be accredited to the most recently notified version, of European Standard EN 45011 or ISO Guide 65 (General requirements for bodies operating product certification systems), and approved by the competent authorities) [i.e. EN 45011:1998 E General requirements for bodies operating product certification systems (ISO/IEC Guide 65:1996), as specified in Communication 2008/C 323/09 from the Commission to the competent authorities in the framework of the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91]<sup>5</sup>.

This requirement shall apply from 1 January 2009, in accordance with Art. 42 of Council Regulation (EC) No 834/2007, taking into consideration that Article 39 par. 2 of Council Regulation (EC) No 834/2007, mentioned that references to the repealed Regulation (EEC) No 2092/91 shall be construed as references to this Regulation.

Provisions concerning the Competent Authorities activities of supervision and audit of control bodies are mentioned in par. 7, 8 and 9 of Art. 27 of Council Regulation (EC) No 834/2007. In particular, under par. 9 point (d) it is mentioned that the competent authority shall withdraw approval of that body where it fails to satisfy the requirements referred to in (a) and (b) or no longer fulfils the criteria indicated in paragraph 5, 6 or fails to satisfy the requirements laid down in paragraphs 11, 12 and 14.

Secondly, as regards the accreditation regime in the EU the relevant EU legislation is the Council Regulation (EC) No 765/2008. However, I draw your attention on the fact that in Article 44 of the same Regulation it is clearly mentioned that this Regulation shall apply from 1 January 2010. Article 39 of Regulation (EC) No 765/2008 stipulates that accreditation certificates issued before 1 January 2010 may remain valid until the date of their expiry, but no later than 31 December 2014. Certificates issued, renewed or extended after the 1<sup>st</sup> January 2010 do, obviously, fall under Regulation (EC) No 765/2008.

Thirdly, to be more specific on control bodies authorisations by competent authorities, Art. 39 of Council Regulation (EC) No 834/2007, repealing Regulation (EEC) No 2092/91 provides a juridical continuity between the two regulations. Therefore, there is no need to re-authorise control bodies if they satisfy the requirements and fulfil the criteria mentioned in Art. 27 (9)(d) of the above mentioned Regulation. Member States shall, in accordance with Art. 27 (10), attribute a code number to each control body performing control tasks referred to in par. 4 of the same Article. Members States shall also provide the Commission by 31 March each year with the information referred to in Article 35(b) of regulation 834/2007, as regards control authorities and bodies approved on 31 December of the previous year, as foreseen in Article 94 of Commission Regulation (EC) No 889/2008.

Nevertheless, all this is without prejudice to the fact that the competent authority can withdraw the approval of a control body in the cases mentioned under Art. 27 (9) (d), motivating the reason for the withdrawal.

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<sup>5</sup>OJ C 323, 18.12.2008 p.14

Finally, it should be noted that Council Regulation (EC) No 834/2007 does not specifically rule accreditation issues but competent authorities' approvals of control bodies. This matter is indeed of competence of each Member State, as is how to design and control the system of accreditation in the organic production sector.

I do take note that you have also addressed correspondence to the Ombudsman on the same matter, and I copy this letter to the Ombudsman for its information.

Yours sincerely,

*Signed*

*.....p.o.*

Jean-Luc DEMARTY  
Director General