

OBSERVAȚII

la Raportul ref. DG(SANCO)/2013-6871-MR al auditului desfasurat in perioada 08-19 aprilie 2013 pentru evaluarea sistemelor de control privind productia ecologica si etichetarea produselor ecologice

1. Pag. II – Rezumat, penultimul paragraf: „Aceste abateri nu fusesera identificate de catre AC in auditul anterior”

Observație: AC a identificat in cadrul auditului ca OC 1 a acordat o derogare care contravine prevederilor legislative nationale in vigoare și a sancționat organismul prin Avertisment scris, așa cum reiese si din Raportul de audit la pag. 7. *Avertismentul scris* este prima sanctiune care se aplica OIC-urilor in caz de constatare de neconformitati, urmand ca in caz de nerezolvare a acestora si de constatare a altor neconformitati sa se propuna retragerea aprobarii organismului de inspectie si certificare privind desfasurarea activitatii pe teritoriul Romaniei, conform art. 11, alin. (2) din Ordinul 181/2012.

La modificarile Ordinului 181/2012 se va analiza oportunitatea elaborarii unei liste cu sanctiuni pentru OIC, care sa cuprinda si sanctiuni cu privire la suspendarea pe o perioada determinata, intre avertismentul scris si pana la retragerea aprobarii.

2. Pag. IV – Abrevieri, precum și pe intreg cuprinsul raportului

Observație: DADR și DAJ reprezinta aceeași structura și anume structura teritoriala a MADR. Denumirea „DADR” a fost utilizata inainte de 2010, cand in urma unei restructurari, a fost modificata și denumirea in „DAJ”.

3. Pag. 3 5.1. Legi si dispozitii nationale relevante – Constatari

Observatie: Proiect de ordin al MADR prin care mai multe institute (si nu doar ICPA) vor fi mandatate sa stabileasca liste cu factorii de productie agricola autorizati in agricultura ecologica sub forma de aditivi pentru hrana animalelor, produse de protectia plantelor (PPP) si ingrasaminte.

4. Pag. 4 – Constatari, paragraful 2 și 3 (la punctul 5.2.1.1. Autoritațile competente)

Observație: Monitorizarea și centralizarea datelor statistice raportate de OC se face atat de catre DGPAS - Compartimentul agricultura ecologica si produse procesate (referitor la datele statistice conform art. 36 din R (CE) 834/2007 si art. 93 din R (CE) 889/2008, cat și de catre Direcția Inspectii de Stat – compartimentul agricultura ecologica (referitor la controalele efectuate).

5. Pag.5 - punctul 5.2.1.1 Concluzii

Observatie: MADR – Directia Inspectii de Stat a continuat și in anul 2013 programul de instruirii, astfel ca in perioada 08-12.07.2013 a avut loc o sesiune de instruire a inspectorilor DAJ, in cadrul

careia s-a pus accent pe punctele slabe identificate cu ocazia auditului DG(SANCO)/2013-6871, astfel:

- pe modul de efectuare a verificarilor in teren de catre consilierii cu atributii de inspectii in domeniul agriculturii ecologice din cadrul DAJ;
- pe controalele de supraveghere a activitatii OIC si certificare efectuate de catre consilierii cu atributii de inspectii in domeniul agriculturii ecologice din cadrul DAJ;
- pe respectarea prevederilor legislative privind prezenta culturilor paralele, in sensul ca pana la sfarsitul lunii noiembrie 2013 se va modifica si completa Ordinul nr.181/2012, interzicandu-se cultivarea aceleasi specii, in cazul culturilor anuale, in sistem conventional si sistem ecologic in cadrul aceleiasi exploatarii.

6. Pag. 9 - punctul 5.2.2.2 Controlul operatorilor

I. Documentele justificative fusesera deja emise, pana data de 15.10.2012, dovara faptul ca acestea au fost depuse de catre operatori, la APIA, in vederea accesarii unei forme de sprijin pentru exploatariile aflate in perioada de conversie spre agricultura ecologica.

Cu ocazia auditului DG(SANCO)/2013-6871, MADR a solicitat APIA dovezi care sa ateste existenta acestor documente justificative, conform art. 92 (4) din R (CE) 889/2008, pentru operatorii aflati in perioada de conversie.

Ulterior aceste certificate emise operatorilor aflatii in perioada de conversie, au fost transmisse de OIC catre AC pentru a fi posteate pe site-ul www.madr.ro. Acesti operatori au fost controlati conform art. 27 (4) din R (CE) 834/2007 si le-au fost emise de catre OIC documente justificative conform art. 29(1) al R (CE) nr 834/2007, utilizand modelul prevazut in Anexa XII a R (CE) nr 889/2008.

7. Pag. 10 – Certificat de tranzactie

Observatie: MADR va avea in vedere la modificarea Ordinului 181/2012, introducerea obligativitatii emiterii de certificate de tranzactie pentru toate cantitatatile comercializate, atat in Romania cat si in afara teritoriului Romaniei.

8. Pag. 11 punctul 5.2.2.2 Controlul operatorilor

OIC fac o prima planificare estimativa a inspectiilor, bazata pe situatia operatorilor vechi inregistrati in sistem. Aceasta planificare devine definitiva dupa inregistrarea operatorilor in sistem pentru anul in curs, la OIC.

OIC a transmis aceste certificate art. 29(1) al R (CE) nr 834/2007, utilizand modelul prevazut in Anexa XII a R (CE) nr 889/2008, catre Autoritatea Competenta, iar aceasta a condus la publicarea pe site a operatorilor certificati de OIC.

9. pag. 11 punctul 5.2.2.3 Prelevarea probelor

AC analizeaza posibilitatea de a utiliza laboratoarele desemnate pentru controalele oficiale, conform R(CE) 882/2004 si va discuta despre posibilitatea folosirii pe viitor a acelorasi laboratoare si de catre OIC.

10. Pag.13 punctul 5.2.3. Controale privind etichetarea si trasabilitatea

Observatie: In cadrul instruirii din perioada 08-12.07.2013, consilierii cu atributii de inspectii tehnice din cadrul DAJ au fost instruiți cu privire la prevederile HG 131/2013 pentru stabilirea masurilor și sancțiunilor necesare în vederea respectării prevederilor Regulamentului (CE) nr. 834/2007 al Consiliului din 28 iunie 2007 privind producția ecologică și etichetarea produselor ecologice, precum și de abrogare a Regulamentului (CEE) nr. 2.092/91 și au primit instructiuni scrise, pentru punerea în aplicare a prevederilor acestui act normativ.

11. Pag. 16-17 punctul 5.2.6. Planificarea si prioritizarea controalelor

Observatii:

- MADR a stabilit o serie de factori de risc pe domenii de activitate (productie vegetala, productie animaliera, comercializare, procesare, etc.), in care sunt cuprinse si toate tipurile de derogari, factori de risc care vor fi gestionate de Sistemul Informatic Integrat pentru Agricultura Ecologica (SIIAE), care va fi pus in functiune pana la sfarsitul anului 2013. Conform factorilor de risc, operatorii economici vor fi clasificati in clase de risc, in functie de care se va stabili frecventa controalelor ce se vor efectua de OIC.
- MADR va aplica prevederile art. 92 c alin. (2), lit. (b) si (c) din R(CE) 392/2013, care prevad:
 - (b) sa se efectueze vizite suplimentare de control prin sondaj, realizate conform dispozitiilor articolului 65 alineatul (4), pentru cel putin 10 % dintre operatorii sub contract, conform categoriei de risc careia ii aparțin;
 - (c) cel putin 10 % dintre toate inspectiile si vizitele efectuate in conformitate cu dispozitiile articolului 65 alineatele (1) si (4) sa fie neanuntate;
 - (d) selectarea operatorilor supusi unor inspectii si vizite neanuntate sa fie efectuata pe baza analizei riscurilor, iar inspectiile si vizitele respective sa fie planificate in functie de nivelul de risc.

Comments

on report DG(SANCO)/2013-6871-MR on the audit carried out from 8 to 19 April 2013 in order to evaluate the control systems for organic production and labelling of organic products

1. Page II – Executive Summary, penultimate paragraph: "These non-compliances had not been identified by the CAs during their previous audit"

Note: The CA ascertained during the audit that CB 1 had granted a derogation that was in contravention of national legislative provisions in force and sanctioned that body by way of a written warning, as indicated on page 7 of the Audit Report. A **written warning** is the first sanction applied to ICBs when non-compliances are detected. Where these are not remedied or other non-compliances are ascertained, it is proposed to withdraw the inspection and certification body's approval for carrying out activities in Romania, in accordance with Article 11(2) of Order No 181/2012.

When amending Order No 181/2012 consideration will be given to the appropriateness of drawing up a list of sanctions for ICBs that would include suspension for a fixed period, between the written warning and the withdrawal of approval.

2. Page IV – Abbreviations, as also used throughout the report

Note: DADR (CDARD) and DAJ are the same body, i.e. the regional extension of the Ministry of Agriculture and Rural Development around the country. The designation "DADR" was used before 2010, when it was changed to "DAJ" following a restructuring.

Page 3 5.1 Relevant national legislation and provisions - Findings

Note: The draft MADR Order mandates several institutes (and not just the Research Institute for Soil and Agrochemistry ICPA) to draw up positive lists for farm inputs authorised for organic farming, as feed additives, Plant Protection Products (PPPs) and fertilisers.

4. Page 4 – Findings, paragraphs 2 and 3 (point 5.2.1.1. Competent Authorities)

Note: The statistical data reported by the CBs are monitored and centralised both by the DGPAS - Department for Organic Farming and Processed Products (regarding statistical data under Article 36 of Council Regulation (EC) No 834/2007 and Article 93 of Commission Regulation (EC) No 889/2008, and by the Directorate for State Inspections – Organic Farming Section (regarding the inspections carried out).

5. Page 5 - point 5.2.1.1 Conclusions

Note: The MADR – Directorate for State Inspections – has continued its training programme in 2013, e.g. from 8-12 July 2013 a training session for DAJ inspectors took place in which the focus was on the weak points identified during the audit DG(SANCO)/2013-6871:

- method of performance of on-the-spot checks by DAJ advisers with inspection responsibilities in the field of organic farming;
- supervisory controls on ICB activities and certification carried out by DAJ advisers with inspection responsibilities in the field of organic farming;
- compliance with legislative provisions regarding the presence of parallel crops - by the end of November 2013 Order No 181/2012 will be amended and supplemented, prohibiting in the case of annual crops the cultivation of the same species in a conventional and organic system on the same holding.

6. Page 9 - point 5.2.2.2 Controls of operators

I. The documentary evidence had already been issued by 15 October 2012, as witness the fact that it was submitted by operators to APIA in order to access some form of support for the holdings during the period of conversion to organic farming.

During the DG(SANCO)/2013-6871 audit, the Ministry of Agriculture and Rural Development asked APIA to provide, in accordance with Article 92(4) of Commission Regulation (EC) 889/2008, proof that this documentary evidence existed for operators in the process of conversion.

These certificates issued to operators in the process of conversion were subsequently sent by the ICB to the CA to be posted on the website www.madr.ro. These operators were controlled in accordance with Article 27(4) of Council Regulation (EC) No 834/2007, and the ICB issued documentary evidence to them in accordance with Article 29(1) of Council Regulation (EC) No 834/2007, based on the model set out in Annex XII to Commission Regulation (EC) No 889/2008.

7. Page 10 – Certificate of transaction

Note: When amending Order No 181/2012, the MARD will consider making it mandatory for certificates of transaction to be issued for all quantities marketed, both in Romania and abroad.

8. Page 11 - point 5.2.2.2 Controls of operators

The ICB is drawing up a preliminary plan of inspections based on the situation of old operators registered in the system. This plan will become definitive after operators have been registered at the ICB in the system for the current year.

The ICB sent these certificates under Article 29(1) of Council Regulation (EC) No 834/2007, using the model set out in Annex XII to Commission Regulation (EC) No 889/2008, to the Competent Authority, leading to publication on the website of the operators certified by the ICB.

9. Page 11 point 5.2.2.3 Sampling

The CA is exploring the possibility of using designated laboratories for official controls, in accordance with Regulation (EC) No 882/2004 of the European Parliament and of the Council, and will discuss the possibility of those laboratories also being used in future by the ICB.

10. Page 13 point 5.2.3. Controls on labelling and traceability

Note: In the course that took place from 8-12 July 2013, DAJ advisers with technical inspection responsibilities underwent training regarding the provisions of *Government Decision No 131/2013 laying down the measures and sanctions necessary in order to comply with the provisions of 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* and received written instructions on implementing the provisions of that Regulation.

11. Page 16-17 point 5.2.6. Planning and prioritisation of controls

Remarks:

- The Ministry of Agriculture and Rural Development has established a number of risk factors by field of activity (crop production, animal production, marketing, processing, etc.), also included in which are all types of derogation; these risk factors will be managed in the Integrated Information Technology System for Organic Agriculture (SIIAE), which is scheduled to come on stream by the end of 2013. In accordance with the risk factors, economic operators will be classified in risk categories, which will be the basis for determining the frequency of controls to be carried out by the ICB.
- The Ministry will apply the provisions of Article 92c(2)(b) and (c) of Commission Implementing Regulation (EU) No 392/2013, stipulating that the risk analysis procedure shall be designed in such a way that:
 - (b) additional random control visits carried out in accordance with Article 65(4) of at least 10% of operators under contract in accordance with the risk category are performed;
 - (c) at least 10 % of all inspections and visits carried out in accordance with Article 65(1) and (4) are unannounced;
 - (d) the selection of operators to be submitted to unannounced inspections and visits is determined on the basis of the risk analysis and that these are planned according to the level of risk.