

The new EU organic regulation 2018/848

(National Austrian guidelines are marked yellow)

The new EU legislation for organic production came into force on January 1st, 2022.

<https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:32018R0848>

The changes for processing companies are not extensive, but it would be to advise to deal with the changes now.

Prohibition of engineered nanomaterial (Article 7)

In the future, ingredients or substances that contain or consist of technically manufactured nanomaterials are prohibited. The definition for this can be found in the regulation 2015/2283 on novel foods. It is nanomaterial that was intentionally produced as such and is usually subject to declaration. Natural or accidental occurring nanomaterials are excepted.

Detergents and disinfectants (Article 24)

While there have been cleaning and disinfection requirements for agricultural operators for years, this area was not yet regulated for processing companies. In the future, the commission will also permit certain substances as agents for cleaning and disinfection for the processing area.

The innovations for agricultural production known to date can be found summarized in "Insights – NEWS Agriculture".

We have updated and summarized the innovations for processing companies based on the current status of the development of the implementing regulations on the date this document was created.

Precautionary measures and dealing with suspected cases (Articles 27-29)

In the future all companies along the value chain will have the same obligations how to avoid the risk of contaminations and irregularities and how to deal with suspected cases.

In Austria, a national guideline was drawn up for the uniform procedure.

"Organic Precautionary Measures" Policy

In this guideline, general and special precautionary measures for primary production/agriculture, listed for harvesting and transport and for processing based on relevant risks that operators take according to Article 28 (1) of Regulation (EU) 2018/848, a contamination by products or substances that are not authorized for use in ecological/organic production according to this regulation, and to avoid a mixture of ecological/organic, in-conversion and non-ecological/non-organic products.

Use of flavors (Annex II, Part IV, 2.2.2. b) and Article 30, (5) a) iii))

Conventional flavors may still to be used in organic products, however, the area of application is restricted based on article 16 paragraphs 2, 3 and 4 of regulation 1334/2008. This includes natural flavors or natural flavor extracts, their flavor component exclusively or at least 95 percent coming from the named plant or animal product (so-called FTNF/S flavors). In addition, flavor extracts are only allowed when they are derived from food.

A definition for organic flavors was also introduced. According to Article 30, (5) a) iii) they will be labeled as organic if they contain natural flavorings or flavor extracts (as described above) and all of their flavoring ingredients and flavor carrier components come from organic production. In addition, flavors will be seen as ingredients of agricultural origin and thus when using conventional flavors have to be considered for the "5% rule".

There may be some extensive changes for product recipes here. It would be to advise for those companies that use flavors in their products to evaluate at an early stage whether there is a need for action and whether adjustments may have to be made.

Changes in labeling (Articles 30-33)

The requirements for labeling remain as in the current ordinance. Only the tolerance concerning the declaration of the country of origin is increased from two percent to five percent and the possibility of a regional indication of origin is introduced.

Trade with third countries (Article 45)

The import and marketing of organic products from third countries will only be possible if the production specifications of the new EU regulation are also met in the third country or if a trade agreement with the respective country exists.

Special features of climate and tradition can, be taken into account here, however, the approval process has yet to be specified. This results in the following trade routes:

- The products meet the requirements of EU legislation for organic farming and all operators are checked regularly.
- The products come from a third country with a trade agreement with the EU and comply with the terms and conditions of this agreement.
- The products come from a third country with equivalent specifications (see current list of third countries), this procedure expires in 2026.

The list of inspection bodies -recognized according to equivalence- that are responsible for inspection in third countries, expires in 2024. Goods that will be imported from the third country list until 2026, must still be imported with a certificate of inspection.

Production rules for processed foods (Annex II Part IV)

According to Article 7 lit. a of Regulation (EU) 2018/848, the production of processed organic food is based on the use of organic ingredients of agricultural origin.

According to Article 30 Paragraph 5 lit a of Regulation (EU) 2018/848, processed foods may only be provided with a reference to organic production in accordance with Article 30 Paragraph 1 of Regulation (EU) 2018/848 in the sales description at least 95 percent by weight of the ingredients of agricultural origin are organic and in particular the detailed production regulations according to Article 16 paragraph 1 in conjunction with Annex II Part IV of Regulation (EU) 2018/848 are met. This means that a maximum of five percent by weight of non-organic ingredients of agricultural origin may be present in processed foods that are labeled as organic in the sales description. These non-organic ingredients in processed organic foods labeled in accordance with Article 30 paragraph 5 lit. a must either be listed in accordance with Article 24 of Regulation (EU) 2018/848 in conjunction with Annex V Part B of Regulation (EU) 2021/1165 or in accordance with Article 25 by a member state have been approved for a limited period of time.

The VO (EG) 889/2008 is repealed – however, Annexes VII and IX continue to apply until December 31, 2023.

A national procedural instruction has been drawn up in Austria for the temporary approval of non-organic ingredients:

Procedural instructions "Approval of non-organic ingredients of agricultural origin - organic"

<95% products

For products in which more than 5% (by weight) of the agricultural ingredients of the product are conventional and the additives and processing aids correspond to the relevant positive lists, the following requirements apply to labeling:

- The EU organic logo may not be used
- No organic reference may be used in the sales description
- The list of ingredients must indicate which ingredients come from organic farming
- The total percentage of organic ingredients in the ingredients of agricultural origin must be indicated in the list of ingredients
- The code no. of the inspection body must be specified

The changes on the certificate will be made after the annual inspection in 2022

Notification of entrepreneurs with small sales of unpackaged food – organic

In principle, entrepreneurs may not place organic or in-conversion products on the market without being in possession of a certificate in accordance with Article 35 paragraph 1 of Regulation (EU) 2018/848.

However, Member States have the possibility to exempt small retail shops selling bulk produce from the obligation to certify this activity. This exemption from the obligation to be in possession of a certificate was made possible and specified in Austria by means of § 3 paragraph 7 of the EU Quality Regulations Implementation Act (EU-QuaDG). Irrespective of this, however, these entrepreneurs are subject to the reporting obligation in accordance with Article 34 paragraph 1 of Regulation (EU) 2018/848, according to which all entrepreneurs who place organic or in-conversion products on the market must report their activities to the competent authorities before they are placed on the market to have.

The present procedural instruction describes the procedure of this notification procedure for entrepreneurs who sell unpackaged organic products or in-conversion products directly to end consumers within the annual insignificance limits according to § 3 paragraph 7 number 2 EU-QuaDG, in the Austrian control system according to EU-QuaDG.

The legal provisions can be found here:

<https://eur-lex.europa.eu/>