



Attachment to AGRECO-QMH - Process 13: Sanctions  
**AGRECO- REGULATION OF SANCTIONS**  
**AS 1/13**  
EFFECTIVE FROM 1.6.2013

**AGRECO**  
R.F.GÖDERZ GmbH  
INSPECTION  
AND CERTIFICATION BODY

- applicable for activities of AGRECO, in context with the inspection and certification procedure regarding conformity respectively equivalency with the EC-legislation on organic farming <sup>1)</sup> and the AGRECO-Equivalency-Standard <sup>2)</sup> as well as for standards under private law, as far as applicable and legally permissible, in combination with the contract between the company and AGRECO, for activities worldwide <sup>3)</sup> –

## **A. PROCEDURAL PRINCIPLES**

### **1. LEGAL BASIS / SUBSIDIARITY**

The present regulation of sanctions is to be applied on basis of the private contract relationship between the company and AGRECO on the implementation of the inspection procedure acc. to EC-legislation on organic farming (CR) in fulfillment of the requirements of Art.27 (6) b (CR) and AGRECO-Equivalency-Standard (AES) equivalent, therefore an inspection body has to have catalogue of sanctions at its disposal in case of irregularities or infringements. The prescription of the CR resp. the AES in their valid versions form basis of this regulation of sanctions.

Any legal prescriptions or any relevant responsibilities of competent authorities in the country of origin of the company or at the place of activity under inspection remain untouched. They will have priority and have to be carried out by the company and the competent authority on their own responsibility.

In Germany, these are ÖLG-Kontrollstellen-Zulassungs-Verordnung (ÖLGKontrollStZuV), (German law on inspection bodies), ÖLG-Ökolandbaugesetz (German law organic farming), ÖkoKennzG-ÖkoKennzeichengesetz; (German law on organic labeling), ÖkoKennzV Öko-Kennzeichenverordnung; (German decree on organic labeling).

For companies, with their place of business in countries where AGRECO has been granted an official mandate as certification body, the national law is prior-ranking, whereas - and as far as legally permissible – in all these cases the evaluation and classification of findings shall be based on the AGRECO-Sanctions Regulation, while the correction of the non-compliance follows national law.

### **2. PRINCIPLE OF EVALUATION AND DOCUMENTATION**

AGRECO takes decision on fulfillment of the requirements of CR and AES by evaluation of the results of all inspection measures, visits and analysis. The evaluation has to be carried out respecting the principles of this regulation of sanctions. The results are laid down in an inspection report, and, if need be, in discrepancy reports. In addition, there will be given a recommendation with respect to the decision on certification. In case of discrepancies, measures will be inflicted according to the AGRECO Catalogue of Sanctions.

### **3. PRINCIPLE OF PROPORTIONALITY**

When inflicting a measure of sanction, the individual case has to be considered taking into account the importance and commercial volume of the case. The AGRECO regulation of sanctions classifies the inadmissible discrepancy as a general category of sanction I, apart from discrepancies admitted by CR and AES. Subsequently there is made a distinction between the irregularities and infringements explicitly stipulated by CR resp. AES as special categories of sanction II and III and category IV with open measures in pending cases. In case of an inadmissible discrepancy, the corrective measure has to be taken according to the applicable category of sanction and prescribed concrete measure of this AGRECO regulation of sanctions.

### **4. CLAUSE OF APPLICABILITY**

For the classification of a discrepancy the AGRECO-Catalogue of Sanctions applies, that was in effect, at the time when the discrepancy occurred.

### **5. DECISION OF CERTIFICATION / „Cross-Check-Principle“**

The decision of certification takes place in an independent inspection process, in context with the review of the evaluation, concerning conformity with CR resp. equivalency with AES, according to the procedure defined in the AGRECO-Quality-Management-Manual („Cross-Check-Principle“). AGRECO communicates the decision taken in form of an evaluation letter to the company.

### **6. REVISION AND CORRECTION CLAUSE**

The certification management of AGRECO has the obligation to ensure a uniform application of the AGRECO-Catalogue of Sanctions for all companies. The management supervises and verifies certification decisions and reserves the right to revise a decision regarding sanction measures within the certification procedure, if required. Other statutory regulations remain untouched hereof.

### **7. RIGHT OF VETO**

The company involved has the right of veto against a decision taken by AGRECO in the certification procedure within a period of one month after notification.

### **8. UPDATING CLAUSE**

All former AGRECO-Catalogues of Sanctions are replaced at the date of coming into effect of the latest AGRECO-Catalogue of Sanctions. On contractual level between the company and AGRECO the conditions on updating of the general terms of contract apply.

### **9. BAVARIAN CLAUSE**

For companies with their place of business within Bavaria additionally, bavarian law is applicable in its valid version. For the period of the legal mandate given to AGRECO, the prescriptions on sanctions and infringements apply as well as the provisions concerning fines, which are to be applied under the supervisory capacity of the competent authority or completely by them. For companies within Bavaria, bavarian legal regulations are integral part of this AGRECO- Sanktions Regulation.

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## B. CATALOGUE OF SANCTIONS

The AGRECO-CATALOGUE OF SANCTIONS consists of three categories of facts regarding the non-compliance with the certification standards, which are deemed to be inadmissible discrepancies and are constrained with appropriate sanction measures for every single case following the order below.

### 1. CATEGORIES OF SANCTIONS

I	<b>deficiencies</b>	every discrepancy from the standards, which is not explicitly allowed under the terms of the standard, (including not authorised, respectively not authorisable deviations); below the sanction category II and III	
II	<b>irregularities</b>	facts in terms of Art. 30, Abs.1 [CR (EG) Nr. 834/2007 / AES equivalent]	
III	<b>infringements</b>	facts in terms of Art. 30, Abs. 1, Satz 2 [CR (EG) Nr. 834/2007 / AES equivalent]	
	III.1 <b>obvious infringements</b>	III.2 <b>infringements with long term effects</b>	S.O.
	<b>IV. pending case</b>	non-compliance still unclear	

### 2. PRECISE FACTS REGARDING THE NON-COMPLIANCE WITH CR AND AES EQUIVALENT

In the legally regulated scopes, the attribution of a sanction measure or a discrepancy depends on the indexing of a non-compliance acc. to the notification requirements to the EU-commission and has to correspond with the current guidelines of the competent authority.

### 3. SANCTIONS / MEASURES

The following principles shall rule:

- In case of a non-compliance the individual case shall be considered while classifying for a sanction
- Only one sanction and one measure per non-compliance shall be applied.

SANCTION CATEGORY I		DISCREPANCY / NON COMPLIANCE
<b>M1</b>	<b>written admonition / condition</b>	In case of an inadmissible discrepancy in the management of the company against the regulation of the standard (especially on first discrepancies in minor points and marginal volume), the discrepancy will be stated as a complaint. MEASURE: written admonition and correction as an obligation
<b>M2</b>	<b>intensified recording- and reporting duty</b>	In case of an inadmissible discrepancy of the minimal control requirements regarding the recording- and reporting duties of the standard. MEASURE: intensified recording- and reporting duty as a correction measure
<b>M3</b>	<b>additional spot check / inspection visit</b>	In case of failure of previous control measures, respectively in case of continued non-fulfillment of obligations, respectively in case of irregularities or infringements regarding the regulations of the standard. MEASURE: Follow-up control of the conformance to requirements of previous imposed sanction-measures, respectively the evaluation of the particular status regarding the standard.
<b>M4</b>	<b>caution</b>	In case of continued and/or serious discrepancies regarding regulations of the standard. MEASURE: sanction-related legal notice to clarify the particular significance of the discrepancy also/especially when M5, M6 or M8 as a sanction measure are impending. If appropriate: additional (spot check) inspection shall be applied

SANCTION CATEGORY II		IRREGULARITY
<b>M5</b>	<b>removal of organic labels</b> acc. to Art. 30 (1), CR 834/2007	If an observation of irregularities, regarding the implementation of the terms of the standard, is made. MEASURE: removal of organic labels from the entire batch or production, which is effected by the irregularity. Refusal of certification for the entire batch or production, which is effected by the irregularity, respectively revocation and reclamation of the certification of the particular batch or production... NOTE: This measure has to be taken by the certification body, only as far as legally permissible, and applying the „Cross-Check-Principle“ and considering the principle of proportionality. Such measure shall always be taken in cooperation with the competent authority, or solely by them, if required by statutory regulations.

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SANCTION CATEGORY III		INFRINGEMENT	including III.1 and III.2
<b>M6</b>	<b>Withdrawal of certification, suspension and temporary prohibition</b> acc. to Art. 30 (1) 2, CR 834/2007	<p>In case of a serious infringement or an infringement with long term effects;</p> <p>MEASURES:  <b>Suspension and temporary prohibition of organic marketing for the whole company.</b>            The company is prohibited to market products with an indication of organic farming for a period of time, which has to be adjusted with the responsible authority for every single case. The company loses its warrant to label and sell products with an indication of organic farming for this period of time.</p> <ul style="list-style-type: none"> <li>- Refusal of certification or</li> <li>- Revocation and reclamation of the certificate</li> </ul> <p>NOTE: This measure has to be taken by the certification body, only as far as legally permissible, and applying the „Cross-Check-Principle“ and considering the principle of proportionality. Such measure shall always be taken in cooperation with the competent authority, or solely by them, if required by statutory regulations.</p>	

SANCTION CATEGORY IV		OPEN SANCTION MEASURE
<b>M7</b>	<b>open, pending case</b>	<p>sanction issues and sanction measures, which could not be led to a final decision in the course of the evaluation.</p> <p>MEASURE:            classification in the status: „open, pending case“ and further clarification.            In cases, in which sanction issues of the category II (Irregularity) and category III (Infringement) are to be expected, the decision of certification also has to be kept open until final clarification.</p>

<b>M8</b>	<b>Preliminary ban of organic labelling</b> acc. to Art. 91, CR 889/2008	<p>applicable in the following situations with the following measures</p> <ol style="list-style-type: none"> <li>1. Where an operator considers or suspects that a product which he has produced, prepared, imported or that he has received from another operator, is not in compliance with organic production rules, he shall initiate procedures either to withdraw from this product any reference to the organic production method or to separate and identify the product. He may only put it into processing or packaging or on the market after elimination of that doubt, unless it is placed on the market without indication referring to the organic production method. In case of such doubt, the operator shall immediately inform the control body or authority. The control authority or control body may require that the product cannot be placed on the market with indications referring to the organic production method until it is satisfied, by the information received from the operator or from other sources, that the doubt has been eliminated. (Art. 91 (1) CR Nr. 889/2008)</li> <li>2. Where a control authority or control body has a substantiated suspicion that an operator intends to place on the market a product not in compliance with the organic production rules but bearing a reference to the organic production method, this control authority or control body can require that the operator may provisionally not market the product with this reference for a time period to be set by that control authority or control body. Before taking such a decision, the control authority or control body shall allow the operator to comment. This decision shall be supplemented by the obligation to withdraw from this product any reference to the organic production method if the control authority or control body is sure that the product does not fulfil the requirements of organic production.            However, if the suspicion is not confirmed within the said time period, the decision referred to in the first subparagraph shall be cancelled not later than the expiry of that time period. The operator shall cooperate fully with the control body or authority in resolving the suspicion. (Art. 91 (2) CR Nr. 889/2008)</li> </ol> <p>NOTE: This measure has to be taken by the certification body, only as far as legally permissible, and applying the „Cross-Check-Principle“ and considering the principle of proportionality. Such measure shall always be taken in cooperation with the competent authority, or solely by them, if required by statutory regulations..</p>	
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