



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B. Quality, Research & Innovation, Outreach  
**Director**

Brussels,  
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Dear Ms Kalvane,

Thank you for your emails of 9 April and 18 May (our reference: Ares(2018)2592206) asking for clarifications on baby food, the interplay between Article 19(2)(b) of Regulation (EC) No 834/2007<sup>1</sup> and Article 27 of Regulation (EC) No 889/2008<sup>2</sup>, the scope of application of Annex VIII to Commission Regulation (EC) No 889/2008 and the addition of ascorbic acid in organic foodstuff different from “baby food”. Please accept my apologies for the late reply.

You ask about the interplay between Article 19(2)(b) of Regulation (EC) No 834/2008 and Article 27 of Regulation (EC) No 889/2008 and the scope of application of Annex VIII to Commission Regulation (EC) No 889/2008, and whether Article 27 and Annex VIII to Commission Regulation (EC) No 889/2008 apply just to foodstuffs for particular nutritional uses.

Article 19 of Regulation (EC) No 834/2007 sets out the general rules on the production of processed food and Article 27 of Regulation (EC) No 889/2008 provides detailed rules regarding the use of certain products and substances in the production of organic processed food. The authorisation of substances in the referred provisions is applicable in food processing in general and not just to foodstuffs for particular nutritional uses. The reference to "for particular nutritional purposes" should be read as referring in general terms to substances essential to produce and prepare food or to fulfil certain dietary requirements as set out in Article 21(1)(ii) of Regulation (EC) No 834/2007.

Regarding “baby food”<sup>3</sup>, I confirm that on the basis of the interpretation given in the letter Ares(2016)6673640 of November 2016, “baby food” to which acid ascorbic acid is

<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1528445550758&uri=CELEX:02007R0834-20130701>

<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1528445598615&uri=CELEX:02008R0889-20180101>

<sup>3</sup> « baby food » means products referred to in points (a) and (b) of Article 1(1) of Regulation (EU) No 609/2013 of the European Parliament and of the Council on food intended for infants and young children <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0609&rid=1>

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added cannot be labelled as “organic” under the current organic rules laid down in Regulation (EC) No 834/2007 and Regulation (EC) No 889/2008.

The Commission is aware that the interpretation given in November 2016 did not correspond to the practices used until then by certain producers of “baby food”. This issue was discussed thoroughly during the negotiations of the text of the organic reform, with the result that vitamins will be authorised to be used in the production of organic “baby food” under certain conditions. These new rules will apply as from 1 January 2021, the date on which the organic reform will enter into application.

The text of the organic reform, as agreed by the European Parliament and the Council states, in point 2.2.2, Part IV of Annex II on processed food production rules states the following:

*“In the processing of food, the following products and substances may be used:*

*(f) minerals (trace elements included), vitamins, amino acids and micronutrients provided that:*

***(i) their use in food for normal consumption is ‘directly legally required’, in the meaning of being directly required by provisions of Union law or provisions of national law compatible with Union law, with the consequence that the food cannot be placed at all on the market as food for normal consumption if those minerals, vitamins, amino acids or micronutrients are not added; or***

*(ii) as regards food placed on the market as having particular characteristics or effects in relation to health or nutrition or in relation to needs of specific groups of consumers:*

*- in products referred to in points (a) and (b) of Article 1(1) of Regulation (EU) No 609/2013 of the European Parliament and of the Council their use is authorised by that Regulation and acts adopted on the basis of Article 11(1) of that Regulation for the products concerned, or*

*- in products regulated by Commission Directive 2006/125/EC, their use is authorised by that Directive.”*

Furthermore, please note that, in order to provide legal certainty to operators between now and 1 January 2021, the Commission has proposed a draft Commission Regulation amending the provisions of Article 27(1)(f) of Regulation (EC) No 889/2008 in line with the text of the reform above. Once this draft amended Regulation is adopted it will be possible to add vitamins in “baby food” when provided for by the relevant EU legislation and to certify these categories of products as organic.

The present opinion is provided on the basis of the facts as set out in your emails of 9 April and 18 May and expresses the view of the Commission services and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the European Court of Justice to provide a definitive interpretation of the applicable Union law.

Yours faithfully,



Nathalie SAUZE-VANDEVYVER