



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

The Director-General

Brussels,
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Dear

Thank you for your email of 27 November 2015 in which you enquire about labelling requirements in relation to food supplements made from agricultural products within the context of Council Regulation (EC) No 834/2007¹.

First of all, I apologise for the delay in responding to your request.

As for the questions you raised, as set out by Article 1 (2), the scope of Council Regulation (EC) No 834/2007 covers:

*"(...) (a) live or unprocessed agricultural products;
(b) processed agricultural products for use as food; (...)"*

Under EU law, agricultural products are those products listed in Annex I of the Treaty on the Functioning of the European Union.

The definition of 'food' can be found in Article 2 of Regulation (EC) No 178/2002²:

"For the purposes of this Regulation, 'food' (or 'foodstuff') means any substance or product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans.

'Food' includes drink, chewing gum and any substance, including water, intentionally incorporated into the food during its manufacture, preparation or treatment."

Food supplements are therefore covered by the Council Regulation (EC) No 834/2007 as long as they are produced from agricultural products. They have to be produced in compliance with the requirements set out by this Regulation if in the labelling,

¹ 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, O.J. L 189, 20.7.2007, p.1

² Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 01/02/2002, p. 1–24)

advertising material or commercial documents such a product is bearing terms referring to the organic production method. However, food supplements produced from vitamins and minerals do not fall under the scope of Regulation (EC) No 834/2007, since they are not processed agricultural products.

In accordance with Article 23(1) of Regulation (EC) No 834/2007, a product shall be regarded as bearing terms referring to the organic production method where, in the labelling, advertising material or commercial documents, such a product, its ingredients or feed materials are described in terms suggesting to the purchaser that the product, its ingredients or feed materials have been obtained in accordance with the rules laid down in this Regulation. In particular, the terms listed in the Annex, their derivatives or diminutives, such as 'bio' and 'eco', alone or combined, may be used throughout the Community and in any Community language for the labelling and advertising of products which satisfy the requirements set out under or pursuant to this Regulation.

Article 23 (2) of Regulation (EC) No 834/2007 requires that the terms referred to in paragraph 1 of the same Regulation shall not be used anywhere in the Community and in any Community language for the labelling, advertising and commercial documents of a product which does not satisfy the requirements set out under this Regulation, unless they are not applied to agricultural products in food or feed or clearly have no connection with organic production.

Any terms, including terms used in trademarks, or practices used in labelling or advertising liable to mislead the consumer or user by suggesting that a product or its ingredients satisfy the requirements set out under this Regulation shall not be used.

It follows that the term 'bio' cannot be used on agricultural products in food or feed unless they satisfy the requirements under Council Regulation (EC) No 834/2007.

The present opinion is provided on the basis of the facts as set out in your e-mail of 27 November 2015 and on the understanding that in the event of a dispute involving Union law it is, under the Treaty on the functioning of the European Union, ultimately for the Court of Justice of the European Union to provide a definitive interpretation of the applicable Union law.

Yours sincerely,



Jerzy PLEWA