



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B – Sustainability

Brussels  
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[REDACTED]

I would like to thank you for your email of 3 December<sup>1</sup> regarding the granting of derogations to use non-organic feed under the previous organic rules set in Regulations (EC) No 834/2007<sup>2</sup> and No 889/2008<sup>3</sup>.

I understood from your email that you granted derogations to use non-organic feed to organic operators affected by the restrictions in place due to avian influenza outbreaks that occurred in November 2021 on the basis of Article 47 (c) of Regulation (EC) No 889/2008 on catastrophic circumstances.

This Article states ‘*The competent authority may authorise on a temporary basis: [...]*

*(c) the use of non-organic feedingstuffs for a limited period and in relation to a specific area by individual operators, when forage production is lost or when restrictions are imposed, in particular as a result of exceptional meteorological conditions, the outbreak of infectious diseases, the contamination with toxic substances, or as a consequence of fires; [...]*

*Upon approval by the competent authority, the individual operators shall keep documentary evidence of the use of the above exceptions. Member States shall inform each other and the Commission on the exceptions they have granted under points (c) and (e) of the first paragraph.”*

Thus, indeed, such derogations could be granted in case of restrictions put in place due to avian influenza outbreaks. However, I am writing to you now because we did not receive yet the corresponding notifications in OFIS for the derogations granted in 2021. The OFIS notifications provide in particular more details on which operators the derogations were granted to and on the type of non-organic feed and the length of time for which the derogations were granted. Hence, you should notify in OFIS the derogations you granted

<sup>1</sup> Ares (2021)7476814

<sup>2</sup> [EUR-Lex - 02007R0834-20130701 - EN - EUR-Lex \(europa.eu\)](#)

<sup>3</sup> [EUR-Lex - 02008R0889-20220101 - EN - EUR-Lex \(europa.eu\)](#)

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in relation to the avian influenza outbreaks last year on the basis of Article 47 (c) of Regulation (EC) No 889/2008.

Finally, I take this opportunity to kindly remind you that, since 1 January 2022, new rules to grant derogations in case of catastrophic circumstances apply. These rules are stricter than the previous rules and are laid down in Article 22 of Regulation (EU) 2018/848<sup>4</sup> and in Commission Delegated Regulation (EU) 2020/2146 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council as regards exceptional production rules in organic production<sup>5</sup>.

Notifications are also needed and must be entered into OFIS.

Finally, I would like to clarify that the derogations you granted to organic operators in 2021 based on the previous legislation will remain valid till the end of the temporary periods fixed in these derogations.

The present opinion is provided on the basis of the facts as set out in your e-mail 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,



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<sup>4</sup> [EUR-Lex - 02018R0848-20220101 - EN - EUR-Lex \(europa.eu\)](#)

<sup>5</sup> [EUR-Lex - 32020R2146 - EN - EUR-Lex \(europa.eu\)](#)