



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Brussels  
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Dear [REDACTED]

I would like to thank you for your email of 20 May 2021<sup>1</sup> asking for clarifications concerning the derogations for using non-organic specific protein compounds in the organic production of poultry and pigs. You already received a short reply by email. However, for implementation purposes, I would like to complete my previous reply.

In your email, you request clarification on whether the terms “specific protein compounds” in case of piglets and young poultry refer to protein feed in general (expellers etc.) and certain amino acids or only to a limited group of certain specific protein compounds like hydrolysates. You also ask for clarification on the calculation of the maximum 5% of “specific protein compounds”.

Under Regulation (EU) 2018/848<sup>2</sup>, the authorisations and derogations set in, respectively, Articles 22 and 43 of Commission Regulation (EC) No 889/2008<sup>3</sup> on the use of certain products and substances in feed were reviewed.

The derogations regarding non-organic protein feed for pigs and poultry apply from 1 January 2022 and the conditions are set in, respectively, points 1.9.3.1 (c) and 1.9.4.2 (c) of Part II of Annex II to Regulation (EU) 2018/848, which state the following:

*“1.9.3 (c) where farmers are unable to obtain protein feed exclusively from organic production, and the competent authority has confirmed that organic protein feed is not available in sufficient quantity, non-organic protein feed may be used until 31 December 2026 provided that the following conditions are fulfilled:*

*(i) it is not available in organic form;*

*(ii) it is produced or prepared without chemical solvents;*

*(iii) its use is limited to the feeding of piglets of up to 35 kg with specific protein compounds; and*

<sup>1</sup> Ares (2021)5265719

<sup>2</sup> <http://data.europa.eu/eli/reg/2018/848/oj>

<sup>3</sup> <https://eur-lex.europa.eu/eli/reg/2008/889/2021-01-01>

*(iv) the maximum percentage authorised per period of 12 months for those animals does not exceed 5 %. The percentage of the dry matter of feed from agricultural origin shall be calculated.”*

*“1.9.4.2 (c) where farmers are unable to obtain protein feed exclusively from organic production for poultry species, and the competent authority has confirmed that organic protein feed is not available in sufficient quantity, **non-organic protein feed may be used until 31 December 2026, provided that the following conditions are fulfilled:***

***(i) it is not available in organic form;***

*(ii) it is produced or prepared without chemical solvents;*

*(iii) its use is limited to the feeding of young poultry with **specific protein compounds;** and*

*(iv) the maximum percentage authorised per period of 12 months for those animals does not exceed 5 %. The percentage of the dry matter of feed of agricultural origin shall be calculated.”*

These have to be compared with the former? provisions of Article 22 (a) and 22 (c)-(e) on the use of certain products and substances in feed and Article 43 on the use of non-organic protein feed of plant and animal origin for livestock of Regulation (EC) No 889/2008, which state the following:

*Article 22 (a) “For the purposes of Article 14(1)(d)(iv) of Regulation (EC) No 834/2007 only the following substances may be used in the processing of organic feed and feeding organic animals:*

***(a) non-organic feed materials of plant or animal origin, or other feed materials that are listed in Section 2 of Annex V, provided that:***

*(i) they are produced or prepared without chemical solvents; and*

***(ii) the restrictions laid down in Article 43 or Article 47(c) are complied with;”***

*(c) organic feed materials of animal origin;*

*(d) feed materials of mineral origin that are listed in Section 1 of Annex V;*

*(e) products from sustainable fisheries, provided that:*

***(i) they are produced or prepared without chemical solvents;***

***(ii) their use is restricted to non-herbivores; and***

***(iii) the use of fish protein hydrolysate is restricted solely to young animals;”***

Article 43 reads:

*“Where the conditions laid down in Article 22(2)(b) of Regulation (EC) No 834/2007 apply and where farmers are unable to obtain protein feed exclusively from organic production, the use of a limited proportion of non-organic protein feed is allowed for porcine and poultry species.*

*The maximum percentage of non-organic protein feed authorised per period of 12 months for those species shall be 5 % for calendar years 2018, 2019, 2020 and 2021.*

*The figures shall be calculated annually as a percentage of the dry matter of feed from agricultural origin. The operator shall keep documentary evidence of the need for the use of this provision.”*

Please note also that the entry “specific protein compounds” was introduced into the list of authorised non-organic feed materials of Annex III to Regulation (EU) 2021/1165<sup>4</sup> only for the purpose of facilitating the reading of organic operators and that this entry only reflects the provisions of points 1.9.3.1 (c) and 1.9.4.2 (c) of Part II of Annex II to Regulation (EU) 2018/848.

These provisions were adopted to limit the use of these derogations only to certain categories of young animals and for the purpose of providing “specific protein compounds” to these categories of animals.

Indeed, from the information provided by stakeholders and Member States, it would appear that young poultry and piglets less than 35 kg need certain specific amino acids during their growing phase such as lysine and methionine<sup>5</sup>. The purpose of this derogation is to ensure that, if these specific needs cannot be covered by organic protein feed, non-organic protein feed materials covering these specific needs could be given to the animals.

Hence, in reply to your first question, these derogations refer to non-organic feed materials naturally rich in these amino acids used in accordance with Regulation (EC) No 767/2009<sup>6</sup> containing the specific amino acids lacking in the rest of the diet of pigs and poultry needed during their growing phase and meeting the criteria laid down in Article 24 (3)(e) and points 1.9.3.1 (c) and 1.9.4.2 (c) of Part II of Annex II to Regulation (EU) 2018/848.

Regarding the calculation of the maximum percentage authorised per period of 12 months referred to in points 1.9.3.1 (c) and 1.9.4.2 (c) of Part II of Annex II to Regulation (EU) 2018/848, I would like to start by highlighting that the first entry of Part A 2) of Annex III to Commission Implementing Regulation (EU) 2021/1165, which reads as follows:

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<sup>4</sup> [http://data.europa.eu/eli/reg\\_impl/2021/1165/oj](http://data.europa.eu/eli/reg_impl/2021/1165/oj)

<sup>5</sup> <https://ok-net-ecofeed.eu/>

<sup>6</sup> <http://data.europa.eu/eli/reg/2009/767/2018-12-26>

Number in feed catalogue	Name	Specific conditions and limits
10	Meal, oil and other feed materials of fish or other aquatic animals origin	<p>provided that they are obtained from fisheries that have been certified as sustainable under a scheme recognised by the competent authority in line with the principles laid down in Regulation (EU) No 1380/2013</p> <p>provided that they are produced or prepared without chemically synthesised solvents</p> <p>their use is authorised only to non-herbivores livestock</p> <p>the use of fish protein hydrolysate is authorised only for young non herbivores livestock</p>

aims to reflect the current provisions of Article 22 (e) of Regulation (EC) No 889/2008 mentioned before.

On this basis, similarly to what was the case under Article 22 (e) of Regulation (EC) No 889/2008, which clearly differentiated, for the purpose of the derogation of Article 43, products from sustainable fisheries to feed materials of plant or animal origin, or other feed materials that are listed in Section 2 of Annex V to Regulation (EC) No 889/2008, I can confirm that fish protein hydrolysate, as referred to in the abovementioned entry in Part A 2) of Annex III to Commission Implementing Regulation (EU) 2021/1165, is not included in the calculation of the maximum percentage authorised per period of 12 months referred to respectively in points 1.9.3.1 (c) and 1.9.4.2 (c) of Part II of Annex II to Regulation (EU) 2018/848.

In fact, fish protein hydrolysate derived from fisheries (and not from aquaculture) can never be certified as organic since “*the products of hunting and fishing of wild animals are not considered as organic products*” according to the definition set in Article 3(2) of Regulation (EU) 2018/848; hence, such fish protein hydrolysate is implicitly not covered by these two derogations since they can never be available under organic form.

The present opinion is provided on the basis of the facts as set out in your email of 20 May 2021 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,



C.C.:

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