Use of conventional technical ingredients (and yeasts) which have to be calculated in accordance to article 27.(2) of Regulation (EC) No 889/2008 as from agriculture origin.

Introduction

Because of the requirements of article 1.(3)b of Regulation (EC) No 1254/2008 a debate is starting whether yeast and yeast products can only be used in organic quality from 1 of January 2014 on. This is not the case. The relevant change in practice from the 1 of January 2014, is the limitation of the use of conventional yeast and yeast extract to a maximum of 5 % in organic labeled products. The objective of this document is to explain this situation.

How organic recipes must be calculated

In accordance to article 23.(4)a of Regulation (EC) No 834/2007 foods can be labeled as organic when;

“(iii) at least 95 % by weight, of its ingredients of agricultural origin are organic;”

In practice this means that when looking at a recipe we have to first identify what ingredients are of agricultural origin and what ingredients are not.

Article 27.(2) provides clarification regarding the authorized substances in article 27 and the annexes of Regulation (EC) No 889/2008:

“For the purpose of the calculation referred to in Article 23(4)(a)(ii) of Regulation (EC) No 834/2007,

(a) food additives listed in Annex VIII and marked with an asterisk in the column of the additive code number, shall be calculated as ingredients of agricultural origin;

(b) preparations and substances referred to in paragraph (1)(b),(c),(d),(e) and (f) of this Article and substances not marked with an asterisk in the column of the additive code number shall not be calculated as ingredients of agricultural origin;

(c) yeast and yeast products shall be calculated as ingredients of agricultural origin as of 31 December 2013.”

It is important to highlight that article 27 starts with the wording “for the purpose of the calculation”. This clarifies that the allocation done by the article 27.(2) is only relevant for the purpose of calculation and does not have any effect on other requirements of this regulation.
Examples of how to use article 27.(2) of Regulation (EC) No 889/2008

We now have to check whether substances have to be calculated as an ingredient of agricultural origin (in accordance to article 23.(4) of Regulation (EC) No 834/2007) so we have to check under which category a certain substance is mentioned. For example for lecithin in recipes we check in Annex VIII and find that there is an asterisk beside E 322 lecithin. Therefore based on article 27.(2)a we now know that we have to calculate lecithin as from “agricultural origin”.

Conversely, for a flavor in a recipe which is authorized in accordance to article 27.(1)c, we find, in article 27.(2)b, the information that substances in this category are not to be calculated as from agricultural origin.

The practical outcome of these requirements

It is therefore very important to recognize what exactly this means. This inclusion of lecithin by article 27.(2)a as a substance calculated as from “agricultural origin” means that this substance has to be calculated as if it were an agricultural ingredient. This is clearly different from the substances in accordance with article 27.(2)b which must not be calculated as agricultural ingredients in the 95% framework. However, it is not required that these substances must be used in organic quality. The practical effect, therefore, is that the use of conventional sources of lecithin is restricted to a maximum of 5%. (Sum of all conventional ingredients from agricultural origin according to article 27.(2) cannot accessed 5%).

This clarification in article 27.(2) do not have any effect on the general authorization of such a substance based on article 19.(2)b of Regulation (EC) No 834/2007.

A proof

The point can be easily proved by the fact that with article 1.(3) of Regulation (EC) No 344/2011, E 292*- Extract of Rosemary, was authorized with the specific condition that this substance can only be used in organic quality. This “specific condition” for E 292 is only sensible if the other products authorized in article 27.(1) of Regulation (EC) No 889/2008 can continue to be used in conventional form.

Yeast and Yeast products

Regulation (EC) No 1254/2008 has established article 27.(2)c:

“(c) Yeast and yeast products shall be calculated as ingredients of agricultural origin as of 31 December 2013.”
This clarifies that, in accordance with the headline of article 27.(2), that from the first of January 2014 yeast and yeast products must be calculated as ingredient of “agricultural origin” for the purpose of Article 23.(4)a(ii) of Regulation (EC) No 834/2007.

In fact, this means, in line with the above explanations, that the use of conventional yeast and yeast product which are authorized for the use in organic foods by the means of article 27.(2)b and 27.(2)c will be limited to maximum of 5% of the agricultural ingredients in an organic product (Article 23.(4)a(ii) Regulation (EC) No 834/2007) from the first of January 2014. (Sum of all conventional ingredients of agricultural origin according to article 27.(2) cannot accessed 5%).