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PRESS RELEASE

[Legal decision]

Infant formula – appropriate health recommendations

Following an urgent appeal by the consumer organisation Intox'Alim, the urgent applications judge of the Conseil d'État today rejected its petition to amend the health recommendations issued to healthcare professionals following the detection of the toxin cereulide in infant formula. They considered that the Ministry of Health's recommendations did not infringe on the right to health protection, as they provided for appropriate medical care for infants. Nor did they prevent families from gathering evidence with a view to bringing possible legal action.

After cereulide, a toxin produced by the bacterium *Bacillus cereus*, was detected in infant formula, several measures were taken to withdraw products from the market and recall batches from December 2025 onwards. On 23 and 31 January 2026, the Ministry of Health issued recommendations to doctors, pharmacists, midwives and nurses on how to proceed in the event of consultations with families of infants who had consumed milk products targeted by the withdrawal and recall measures.

The Intox'Alim organisation, which defends victims of food poisoning, believed that the recommendations were detrimental to the proper medical care of infants who had consumed potentially contaminated infant formula, as well as to the gathering of evidence necessary for families to bring legal action. The organisation referred the matter to the Conseil d'État in a freedom injunction, requesting that it issue an order to the Minister of Health to urgently amend the messages in several respects.

The judge ruled today that the messages disseminated by the Ministry of Health did not seriously and manifestly infringe upon the right to respect for life, the right to health protection, or the right to seek effective remedy before a court.

Recommendations prescribing medical care for infants and criteria for reporting to the authorities

At the end of the summary proceedings, the judge considered that the messages disseminated by the Ministry of Health prescribed appropriate medical care for infants.

They observed that messages in response to a health alert were necessarily concise in nature. They were not intended to describe all the possible consequences of cereulide poisoning, such as the hepatic and neurological complications cited by the organisation. Furthermore, the messages specified that "if a serious case is identified, it should naturally be referred to a hospital's emergency services" for "appropriate treatment". Additionally, it emerged from discussions during the hearing that, apart from serious cases requiring hospitalisation, the systematic performance of biological analyses of the stools of infants presenting the symptoms associated with cereulide poisoning is of no therapeutic value.

The judge also pointed out that the recommendations did not exempt doctors who had to treat infants who had consumed milk withdrawn from the market from taking all the scientific data available into consideration when making their diagnosis. They also noted that the recommendations did not prevent them from carrying out or prescribing any investigations or examinations they may have deemed necessary.

The judge considered that reporting only cases identified as serious to the regional health agencies (ARS) did not infringe upon the right to respect for life and the right to health protection. They noted, in particular, that the reporting criteria adopted were defined in consultation with the relevant academic experts.

They furthermore observed that, as confirmed at the hearing by the Ministry of Food, all batches identified as potentially contaminated with cereulide had been withdrawn from the market, that monitoring of consumer reports to manufacturers and on the government portal signal.conso.gouv.fr – which healthcare professionals are encouraged to promote in the event of symptoms – is ongoing and that official analyses are being carried out in addition to those carried out by manufacturers.

Legal action is not impeded

Finally, the judge noted that the recommendations, which invite healthcare professionals to advise parents to keep the packaging of milk products recalled in the event of serious symptoms requiring hospitalisation and “should they wish to” in the event of symptoms suggestive of cereulide poisoning (but not in the absence of symptoms), cannot under any circumstances prevent the analyses and protective measures that may be ordered by the courts in the context of proceedings that may be brought before them. Furthermore, families may in all cases keep infant formula packaging or, failing that, any other item likely to prove their purchase, as evidence of their child's exposure to milk contaminated with cereulide. Consequently, the messages disseminated by the Ministry of Health did not infringe upon the right to seek effective remedy before a court.

On these grounds, the organisation's appeal was dismissed.

Decision No. 512730, Association Intox'Alim, 3 March 2026