

Commission Implementing Decision (EU) 2020/1809 of 30 November 2020 concerning certain protective measures in relation to outbreaks of highly pathogenic avian influenza in certain Member States (notified under document C(2020) 8591) (Text with EEA relevance)

COMMISSION IMPLEMENTING DECISION (EU) 2020/1809

of 30 November 2020

concerning certain protective measures in relation to outbreaks of highly pathogenic avian influenza in certain Member States

(notified under document C(2020) 8591)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market⁽¹⁾, and in particular Article 9(4) thereof,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary checks applicable in intra-Union trade in certain live animals and products with a view to the completion of the internal market⁽²⁾, and in particular Article 10(4) thereof,

Having regard to Council Directive 2005/94/EC of 20 December 2005 on Community measures for the control of avian influenza and repealing Directive 92/40/EEC⁽³⁾, and in particular Article 63(4) thereof,

Whereas:

- (1) Avian influenza is an infectious viral disease in birds. Infections with avian influenza viruses in domestic poultry and other captive birds cause two main forms of that disease that are distinguished by their virulence. The low pathogenic form generally only causes mild symptoms, while the highly pathogenic form results in very high mortality rates in most species of birds. That disease may have a severe impact on the profitability of poultry farming.
- (2) Since 2005, highly pathogenic avian influenza (HPAI) viruses of the H5 subtype have been shown to be able to infect migratory birds, which can then spread these viruses over long distances during their autumn and spring migrations.
- (3) In the event of an outbreak of HPAI, there is a risk that the disease agent may spread to other holdings where poultry or other captive birds are kept.
- (4) Directive 2005/94/EC lays down certain preventive measures relating to the surveillance and the early detection of avian influenza and the minimum control

measures to be applied in the event of an outbreak of that disease in poultry or other captive birds. That Directive provides for the establishment of protection and surveillance zones in the event of an outbreak of HPAI. This regionalisation is applied in particular to preserve the health status of poultry and other captive birds in the remainder of the territory of the affected Member State and in the rest of the Union. Measures set out in those zones prevent further spread of infection by carefully monitoring and restricting movements of poultry and other captive birds and the use of products liable to be contaminated with the pathogenic agent and by ensuring the early detection of the disease.

- (5) Between December 2019 and June 2020, Bulgaria, Czechia, Germany, Hungary, Poland, Romania and Slovakia notified the Commission of outbreaks of HPAI of subtype H5N8 in holdings on their territory where poultry or other captive birds were kept.
- (6) For reasons of clarity, co-ordination at Union level and in order to keep the Member States, third countries and stakeholders up-to-date on the evolution of the epidemiological situation, Commission Implementing Decision (EU) 2020/47⁽⁴⁾ was adopted to list in one Union act all the protection and surveillance zones established by the competent authorities of those Member States following outbreaks of HPAI of subtype H5N8 in holdings on their territory in accordance with Directive 2005/94/EC.
- (7) The epidemiological situation with regard to HPAI improved from July to September 2020, when no outbreaks in poultry or other captive birds, or detections of HPAI in wild birds were confirmed in the Union during that time.
- (8) Since October 2020, following the arrival of migratory wild birds during their autumn migration, the Netherlands and Germany have confirmed outbreaks of HPAI of subtype H5N8 in holdings on their territory where poultry or other captive birds are kept. In those Member States, the causative virus was first found in several species of wild birds, before it was detected in holdings where poultry or other captive birds were kept. In response to those occurrences of HPAI of subtype H5N8 in the Netherlands and Germany, the Commission adopted several Commission Implementing Decisions laying down certain interim protection measures addressed to those Member States.
- (9) The HPAI virus of subtype H5N8 continues to be identified in a high number of wild birds in the Netherlands and in Germany. Denmark, Ireland and Belgium have also identified the same HPAI of subtype H5N8 virus in wild birds on their territory. In addition, the United Kingdom has also confirmed outbreaks of HPAI of subtype H5N8 in holdings where poultry or other captive birds were kept and it has identified the virus as well in wild birds on its territory. Recently, Denmark, France, Sweden, Croatia and Poland have also confirmed outbreaks of HPAI of subtype H5N8 on their territory in holdings where poultry or other captive birds are kept.
- (10) In addition, HPAI viruses of subtypes H5N1 and H5N5 have also been identified in wild birds in the Netherlands and Germany respectively.
- (11) Wild birds, in particular wild migratory water birds, are known to be the natural host for avian influenza viruses. The presence of different subtypes of HPAI viruses in wild

birds is not unusual, but poses a continuing threat for the direct and indirect introduction of those viruses into holdings where poultry or other captive birds are kept with the risk of the possible subsequent spread of the virus from an infected holding to other holdings. In addition, this increases the risk for re-assortment and the emergence of new virus subtypes.

- (12) Given the evolving epidemiological situation of HPAI viruses in the Union, and taking into account the seasonality of virus circulation in wild birds, there is a risk that further outbreaks of different subtypes of HPAI will occur in the Union in the coming months. The Commission, together with Member States, is therefore continually assessing the epidemiological situation and keeping the protective measures under review.
- (13) The protective measures laid down in this Decision should be adapted from those laid down in Implementing Decision (EU) 2020/47, to ensure that they are appropriate to cover the level of risks associated with the current epidemiological situation, and that they do not place burdens on operators that are disproportionate to the risks involved in the spread of HPAI. Therefore, these new protective measures should take into account the varying levels of risks associated with the movements of different poultry commodities.
- (14) Article 26(1) and point (c)(iv) of Article 30 of Directive 2005/94/EC lay down the conditions under which competent authorities of Member States may authorise the direct transport of hatching eggs from a holding located in a protection or surveillance zone to a designated hatchery, subject to compliance with certain conditions. The direct transport of such hatching eggs from the designated hatchery to a vaccine-manufacturing establishment does not represent any increased risk than if they were directly transported from the holding of origin of the parent flock from which they are derived to the vaccine-manufacturing establishment, subject to compliance with the conditions to be laid down in this Decision.
- (15) Hatching eggs are an important component in the specialised manufacture of vaccines, including human influenza vaccines. Vaccine manufacturing implies the use of specific hatching eggs obtained from pathogen-free parent flocks and also that strict biosafety and biosecurity measures are followed. In addition, the vaccine producing process eliminates the risk of pathogens, including avian influenza viruses. Therefore, the direct transport of hatching eggs from the establishment of origin or from a designated hatchery to a vaccine-manufacturing establishment, may be considered an activity that represents a very low risk for the spread of the HPAI viruses.
- (16) The restrictions on the movement of consignments of hatching eggs from areas in protection and surveillance zones, as required by Articles 22 and 30 of Directive 2005/94/EC, can, in the case of movements to vaccine-manufacturing establishments, create disruptions in the well-established chain of supply for the production of human influenza vaccines in a period of high market demand for such products and therefore give rise to health concerns as regards the availability of such vaccines during the forthcoming months.
- (17) Therefore, the direct transport of hatching eggs from establishments of origin or designated hatcheries in the protection and surveillance zones to vaccine-manufacturing

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2020/1809. (See end of Document for details)

establishments should be permitted under certain conditions. In such cases, the animal health certificates provided for in accordance with Council Directive 2009/158/EC⁽⁵⁾ should include a reference to this Decision.

- (18) Directive 2009/158/EC lays down general health rules governing trade within the Union in poultry and hatching eggs, including the veterinary certificates required to accompany consignments of those commodities dispatched to other Member States. Article 6 of that Directive provides that in order to be traded within the Union, hatching eggs are to come from establishments which are not located in an area which for animal health reasons is subject to restrictive measures in accordance with Union legislation, as a result of an outbreak of a disease to which poultry are susceptible. In order to verify compliance with the requirements of this Decision, it is appropriate that the veterinary certificates provided for in Article 20 of Directive 2009/158/EC that are required to accompany consignments of hatching eggs, include a reference to this Decision.
- (19) Taking into account that the direct transport of hatching eggs to a vaccine-manufacturing establishment poses a very low risk for the spread of HPAI, the competent authorities of the Member States required to establish protection or surveillance zones in accordance with Directive 2005/94/EC and duly referred to in the Annex to this Decision, should be allowed to authorise the dispatch of hatching eggs for direct transport from establishments of origin or from designated hatcheries to a vaccine-manufacturing establishment located outside the protection and surveillance zones.
- (20) Accordingly, this Decision should lay down the conditions for the competent authorities of the Member States of dispatch to authorise the dispatch of hatching eggs from establishments of origin or from designated hatcheries located inside the protection and surveillance zones to vaccine-manufacturing establishments located outside the protection and surveillance zones, or in another Member State.
- (21) For reasons of clarity and taking into account the current co-circulation of three and possibly more different HPAI virus subtypes during the current epidemic, it is necessary to extend the scope of the current protection measures laid down in Implementing Decision (EU) 2020/47 in order to cover all HPAI viruses as defined in Directive 2005/94/EC, as well as to keep the Member States, third countries and stakeholders up-to-date on the current epidemiological situation in the Union.
- (22) The protection and surveillance zones that have been established by Croatia, Denmark, France, Germany, the Netherlands, Poland and Sweden (the ‘concerned Member States’) in accordance with Directive 2005/94/EC, should be listed in a single act and the duration of the regionalisation should be fixed taking into account the current epidemiological situation with regard to HPAI.
- (23) The duration of the measures to be applied in the protection and surveillance zones required to be laid down in accordance with Article 29(1) and Article 31 of Directive 2005/94/EC should be adapted to the evolution of the epidemiological situation as shown by the results of the epidemiological inquiries provided for by Article 6 of that Directive, and the measures applied in accordance with Article 18 and points (a) and (g) of Article 30 thereof.

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- (24) The Commission has examined those measures in collaboration with the concerned Member States, and it is satisfied that the boundaries of the protection and surveillance zones, established by the competent authority of the concerned Member States, are at a sufficient distance to any holding where an outbreak of HPAI has been confirmed.
- (25) In order to prevent any unnecessary disturbance to trade within the Union and to avoid unjustified barriers to trade being imposed by third countries, it is necessary to rapidly describe at Union level, in collaboration with the concerned Member States the new protection and surveillance zones established in those Member States in accordance with Directive 2005/94/EC.
- (26) Accordingly, the protection and surveillance zones in the concerned Member States, where the animal health control measures as laid down in Directive 2005/94/EC are applied, should be set out in the Annex to this Decision and the duration of that regionalisation fixed.
- (27) In addition, Commission Implementing Decisions (EU) 2020/47, (EU) 2020/1606⁽⁶⁾ and (EU) 2020/1664⁽⁷⁾ should be repealed and replaced by this Decision.
- (28) Given the urgency of the epidemiological situation in the Union as regards HPAI, it is important that this Decision take effect as soon as possible.
- (29) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

1 This Decision establishes at Union level the protection and surveillance zones to be established by the Member States listed in the Annex to this Decision hereto (the concerned Member States), following an outbreak or outbreaks of highly pathogenic avian influenza (HPAI) in poultry or other captive birds in accordance with Article 16(1) of Directive 2005/94/EC and the duration of the measures to be applied in accordance with Article 29(1) and Article 31 of Directive 2005/94/EC.

2 This Decision lays down rules concerning the dispatch of consignments of hatching eggs from the concerned Member States.

Article 2

The concerned Member States shall ensure that:

- (a) the protection zones established by their competent authorities, in accordance with Article 16(1)(a) of Directive 2005/94/EC, comprise at least the areas listed as protection zones in Part A of the Annex to this Decision;
- (b) the measures to be applied in the protection zones, as provided for in Article 29(1) of Directive 2005/94/EC, are maintained until at least the dates for the protection zones set out in Part A of the Annex to this Decision.

Article 3

The concerned Member States shall ensure that: