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COMMISSION DECISION

of 19 October 2005

laying down biosecurity measures to reduce the risk of transmission of highly pathogenic avian influenza caused by Influenza virus A subtype H5N1 from birds living in the wild to poultry and other captive birds and providing for an early detection system in areas at particular risk

(notified under document number C(2005) 4163)

(Text with EEA relevance)

(2005/734/EC)

(OJ L 274, 20.10.2005, p. 105)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Commission Decision 2005/745/EC of 21 October 2005	L 279	79	22.10.2005
► <u>M2</u>	Commission Decision 2005/855/EC of 30 November 2005	L 316	21	2.12.2005
► <u>M3</u>	Commission Decision 2006/405/EC of 7 June 2006	L 158	14	10.6.2006
► <u>M4</u>	Commission Decision 2006/574/EC of 18 August 2006	L 228	24	22.8.2006
► <u>M5</u>	Commission Decision 2007/105/EC of 15 February 2007	L 46	54	16.2.2007
► <u>M6</u>	Commission Decision 2007/803/EC of 6 December 2007	L 323	42	8.12.2007
► <u>M7</u>	Commission Decision 2009/6/EC of 17 December 2008	L 4	15	8.1.2009
► <u>M8</u>	Commission Decision 2009/818/EC of 6 November 2009	L 291	27	7.11.2009
► <u>M9</u>	Commission Decision 2010/734/EU of 30 November 2010	L 316	10	2.12.2010
► <u>M10</u>	Commission Implementing Decision 2012/248/EU of 7 May 2012	L 123	42	9.5.2012

**COMMISSION DECISION****of 19 October 2005**

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽¹⁾, and in particular Article 10(4) thereof,

Whereas:

- (1) The measures provided for in Council Directive 92/40/EEC of 19 May 1992 introducing Community measures for the control of avian influenza ⁽²⁾ should ensure the protection of animal health and should contribute to the development of the poultry sector.
- (2) Following the outbreaks of highly pathogenic avian influenza caused by Influenza virus A subtype H5N1, which started in south-eastern Asia in December 2003, the Commission adopted several Decisions to prevent the introduction of this disease into the Community from the affected third countries. Those Decisions provided that imports into the Community from the concerned countries of live poultry, other live birds, poultry meat and certain other products of poultry origin, meat and meat products of wild and farmed game birds, game trophies of birds, eggs and egg products thereof were banned, subject to limited exceptions.
- (3) The measures laid down in Commission Regulation (EC) No 745/2004 of 16 April 2004 laying down measures with regard to imports of products of animal origin for personal consumption ⁽³⁾ clearly apply to meat and meat products of wild and farmed game birds.
- (4) Regulation (EC) No 745/2004 requires all Member States to bring the rules as laid down to the attention of passengers at all designated EU points of entry. Member States should ensure

⁽¹⁾ OJ L 224, 18.8.1990, p. 29. Directive as last amended by Directive 2002/33/EC of the European Parliament and of the Council (OJ L 315, 19.11.2002, p. 14).

⁽²⁾ OJ L 167, 22.6.1992, p. 1. Directive as last amended by the 2003 Act of Accession.

⁽³⁾ OJ L 122, 26.4.2004, p. 1.

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that this information is particularly brought to the attention of those passengers arriving from avian influenza affected countries. The information shall be displayed by prominent notices placed in easily visible locations. International passenger transport operators shall draw the attention of all passengers they carry into the Community to the animal health conditions for imports into the Community of products of animal origin.

- (5) In relation to the risk that the Influenza A virus subtype H5N1 could also be spread due to wild birds and in particular migratory birds, the Commission has also adopted Decisions 2005/731/EC ⁽¹⁾, 2005/732/EC ⁽²⁾ and 2005/726/EC ⁽³⁾ providing for additional avian influenza surveillance in domestic poultry and wild birds.
- (6) General requirements for the maintenance of a high level of disease preparedness and in particular for the implementation of veterinary supervision and biosecurity measures are laid down in Community legislation, notably Directives 90/425/EEC and 92/40/EEC.
- (7) Highly pathogenic avian influenza caused by Influenza A virus subtype H5N1 has been recently confirmed in Turkey. Circumstantial evidence and molecular epidemiology data strongly suggest that the avian influenza virus has spread into this country proceeding from central Asia via migratory birds.
- (8) Avian influenza has also been confirmed in Romania in a backyard poultry farm in an area with a high density of migratory birds.
- (9) In order to reduce the risk of highly pathogenic avian influenza caused by Influenza A virus subtype H5N1 introduction into poultry farms and other premises where birds are kept in captivity via wild birds it is appropriate to strengthen the Community measures already in place to tackle that risk.
- (10) The measures of this Decision should be risk-based and not limited to short term actions such as those implemented within the framework of the National Contingency Plans for Avian Influenza or Newcastle Disease, in case an outbreak occurs.
- (11) The Member States should inform the Commission by 5 November 2005 of the measures taken to ensure proper implementation of this decision. Those measures and, if appropriate, this Decision are to be reviewed in the Standing Committee and Animal Health at its meeting scheduled for 10 and 11 November 2005.
- (12) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

⁽¹⁾ See page 93 of this Official Journal.

⁽²⁾ See page 95 of this Official Journal.

⁽³⁾ OJ L 273, 19.10.2005, p. 21.

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HAS ADOPTED THIS DECISION:

*Article 1***Biosecurity measures**

1. Member States shall take appropriate and practicable measures to reduce the risk of transmission of highly pathogenic avian influenza caused by Influenza A virus subtype H5N1 (hereinafter 'avian influenza') from birds living in the wild to poultry and other captive birds, taking into account the criteria and risk factors set out in Annex I to this Decision.
2. Depending on the specific epidemiological situation, the measures of paragraph 1 shall be directed in particular at:
 - (a) preventing direct and indirect contact between birds living in the wild, and in particular waterfowl, on the one hand and poultry and other birds, and in particular ducks and geese, on the other hand,
 - (b) ensuring separation between domestic ducks and geese from other poultry.
3. Member States shall ensure that when animal health checks are undertaken on poultry holdings, they shall be done in a way to ensure compliance with the provisions of this Decision.

▼M9

4. Member States shall regularly review the measures they have taken pursuant to paragraph 1, and in the light of the surveillance programmes that they have carried out in accordance with Article 4 of Council Directive 2005/94/EC⁽¹⁾, in order to adjust to the changing epidemiological and ornithological situation, the areas of their territory that they have identified as being particularly at risk from the introduction of avian influenza.

▼B*Article 2***Early detection systems**

1. Member States shall introduce early detection systems in the areas of their territory that they have identified as being particularly at risk for the introduction of avian influenza, taking into account the criteria set out in Annex II to this Decision.
2. The early detection systems shall be aimed at a rapid reporting of any sign of avian influenza in poultry and other captive birds by the owners or keepers to the competent veterinary authority.
3. In particular in this context, the criteria set out in Annex II shall be taken into account.

▼M4*Article 2a***Additional risk mitigating measures**

1. Member States shall ensure that the following activities are prohibited in the areas of their territory that they have identified as being particularly at risk for the introduction of avian influenza, in accordance with Article 1(1):
 - (a) the keeping of poultry in the open air, without undue delay;

⁽¹⁾ OJ L 10, 14.1.2006, p. 16.

▼ M4

- (b) the use of outdoor water reservoirs for poultry;
- (c) the provision of water to poultry from surface water reservoirs accessed by wild birds;

▼ M9

- (d) the use of birds of the orders *Anseriformes* and *Charadriiformes* as decoy birds (decoy birds).

▼ M4

2. Member States shall ensure that the bringing together of poultry and other birds at markets, shows, exhibitions and cultural events, including point-to-point races of birds, is prohibited.

*Article 2b***Derogations**

1. By way of derogation from Article 2a(1), the competent authority may authorise the following activities:

- (a) the keeping of poultry in the open air, provided the poultry are supplied with feed and water indoors or under a shelter which sufficiently discourages the landing of wild birds and thereby prevents contact by wild birds with the feed or water intended for the poultry;
- (b) the use of outdoor water reservoirs if they are required for animal welfare reasons for certain poultry and are sufficiently screened against wild waterfowl;
- (c) the provision of water from surface water accessed by wild waterfowl after treatment that would ensure inactivation of the possible avian influenza virus;

▼ M9

- (d) the use of decoy birds:
 - (i) by decoy bird holders registered with the competent authority, under the strict supervision of the competent authority for the attraction of wild birds intended for sampling pursuant to the Member States' programmes for avian influenza, research projects, ornithological studies or any other activity approved by the competent authority; or

▼ M4

- (ii) in accordance with appropriate biosecurity measures, which include:
 - identification of the individual decoy birds by a ringing system,
 - implementation of a specific surveillance system for decoy birds,

▼ M9

- the recording and reporting of the health status of decoy birds and laboratory testing for avian influenza in the case of deaths of such birds and at the end of the period of use in the area identified at particular risk for the introduction of avian influenza,

▼ M4

- strict separation between decoy birds and domestic poultry and other captive birds circuit,

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- cleansing and disinfection of the means of transport and equipment used for the transport of decoy birds and for trips in the areas where decoy birds are placed,
 - restrictions and control of movements of decoy birds, in particular to prevent contacts with different open waters,
 - the development and implementation of ‘guidelines of good biosecurity practises’ detailing the measures provided for in the first to sixth indents,
 - implementation of a reporting system on the data obtained from the measures referred to in the first, second, and third indents.
2. By way of derogation from Article 2a(2), the competent authority may authorise the gatherings of poultry and other captive birds.

*Article 2c***Conditions for and follow-up to authorisation**

1. Member States shall ensure that authorisations in accordance with Article 2b are only granted following the favourable outcome of a risk assessment and provided that biosecurity measures are in place to avoid possible spread of avian influenza.
2. Before authorising the use of decoy birds in accordance with Article 2b(1)(d)(ii), the Member State concerned shall submit a risk assessment to the Commission accompanied by information on the biosecurity measures that are to be put in place to ensure proper implementation of that Article.
3. Member States that grant derogations in accordance with Article 2(b)(1)(d)(ii) shall submit a monthly report to the Commission on the biosecurity measures adopted.

▼B*Article 3*

The Member States shall amend their legislation so as to bring it into compliance with this Decision and they shall give immediate appropriate publicity to the measures adopted. They shall immediately inform the Commission of the measures taken to ensure proper implementation of this Decision.

Article 4

The Decision shall apply until ►**M10** 31 December 2013 ◀.

Article 5

This Decision is addressed to the Member States.

▼ B*ANNEX I***Criteria and risk factors to be considered when applying the measures set out in Article 1 on individual poultry Holdings**

PART I

*Risk factors for virus introduction into poultry***▼ M2**

— Location of the holding along migratory flight paths of birds, in particular where the birds are coming from central and eastern Asia, the Caspian Sea and the Black Sea areas, the Middle East and Africa;

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- Distance of the holding from wet areas, ponds, swamps, lakes or rivers where migratory water fowl may gather;
- Location of the poultry holdings in areas with a high density of migratory birds, particularly waterfowl;
- Poultry or other captive birds kept in an open-air holdings, or in any other premises in which contact between wild birds and poultry or other captive birds cannot be sufficiently prevented.

PART II

Additional risk factors for within holdings and holding-to-holding virus spread

- Location of poultry holding in areas with high densities of poultry holdings;
- Intensity of movements of poultry and other captive birds, vehicles and persons within and from holdings and other direct and indirect contacts between holdings.

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ANNEX II

Criteria to be considered for commercial poultry Holdings when applying the measure set out in Article 2

- Drop in feed and water intake higher than 20 %,
- Drop in egg production higher than 5 % for more than two days,
- Mortality rate higher than 3 % in a week,
- Any clinical sign or post-mortem lesion suggesting avian influenza.