

**COMMISSION DECISION**  
**of 28 May 2003**  
**amending Decision 2003/358/EC concerning protection measures in relation to avian influenza in**  
**Germany**

(notified under document number C(2003) 1785)

(Only the German text is authentic)

(Text with EEA relevance)

(2003/386/EC)

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 <sup>(1)</sup>, as last amended by Council Directive 2002/33/EC <sup>(2)</sup>, and, in particular, Article 10(4) thereof,

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 <sup>(3)</sup>, as last amended by Directive 92/118/EEC <sup>(4)</sup>, in particular Article 9 thereof,

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption <sup>(5)</sup>, and in particular Article 4(1) and (3) thereof,

Whereas:

- (1) On 9 May the veterinary authorities of Germany have informed the Commission about a strong suspicion of highly pathogenic avian influenza in a poultry flock in the *Land* of North Rhine-Westphalia, which has been confirmed on 13 May 2003.
- (2) Avian influenza is a highly contagious poultry disease that can pose a serious threat for the poultry industry.
- (3) The German authorities have immediately, before the official confirmation of the disease, implemented the measures foreseen in Council Directive 92/40/EEC <sup>(6)</sup> introducing Community measures for the control of avian influenza.

<sup>(1)</sup> OJ L 224, 18.8.1990, p. 29.

<sup>(2)</sup> OJ L 315, 19.11.2002, p. 14.

<sup>(3)</sup> OJ L 395, 30.12.1989, p. 13.

<sup>(4)</sup> OJ L 62, 15.3.1993, p. 49.

<sup>(5)</sup> OJ L 18, 23.1.2003, p. 11.

<sup>(6)</sup> OJ L 167, 22.6.1992, p. 1.

(4) For the sake of clarity and transparency the Commission after consultation with the German authorities, has adopted Decision 2003/333/EC <sup>(7)</sup> of 12 May 2003 concerning protection measures in relation to strong suspicion of avian influenza in Germany, thereby reinforcing the measures taken by the German authorities. Subsequently Decision 2003/358/EC <sup>(8)</sup> was adopted to prolong and amend the measures.

(5) Since the first outbreak confirmed on 13 May 2003, no further outbreaks have been recorded in Germany.

(6) The protection measures taken by the German authorities should be prolonged until 17 June 2003 and amended in the light of the positive evolution of the disease, by reducing the restricted area as of 8 June, provided no further outbreaks occur.

(7) The situation shall be reviewed at the meeting of the Standing Committee on the Food Chain and Animal Health scheduled for 13 June 2003.

(8) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

*Article 1*

Decision 2003/358/EC shall be amended as follows:

1. Article 1 paragraph 6(a) shall be replaced by the following text:

‘6 (a) By way of derogation from paragraphs 1 and 4(a) and (b) the competent authorities of Germany may authorise the transport and dispatch from the area described in part B of the Annex to other parts of Germany not listed in the Annex, of:

— poultry for immediate slaughter to a slaughterhouse that has been designated by the competent veterinary authorities;

— day-old chicks and ready-to-lay pullets, to a holding or shed under official control where no other poultry is kept.’

<sup>(7)</sup> OJ L 116, 13.5.2003, p. 28.

<sup>(8)</sup> OJ L 123, 17.5.2003, p. 55.

2. A new Article 7a is added as follows:

*Article 7a*

1. However as of midnight 8 June 2003, if
  - (a) no further outbreaks of avian influenza are reported in Germany before 17.00 on 8 June 2003, and
  - (b) all the clinical examinations and laboratory tests carried out in Germany in relation to holdings infected, suspected or suspected to be contaminated with avian influenza have given negative results,

the Annex shall be replaced by the Annex to this Decision and paragraph 6(a) of Article 1 is replaced by the following text:

- “6 (a) By way of derogation from paragraphs 1 and 4 (a) and (b) the competent authorities of Germany may authorise the transport and dispatch from the area described in the Annex to other parts of Germany not listed in the Annex, of:
- poultry for immediate slaughter to a slaughterhouse that has been designated by the competent veterinary authorities;

— day-old chicks and ready-to-lay pullets to a holding or shed under official control, where no other poultry is kept.”

2. For the purpose of paragraph 1, Germany shall inform the Commission and the Member States on 8 June 2003 on the compliance with the conditions set up in paragraph 1.’
3. In Article 8 the time and date ‘until 24.00 on 30 May 2003’ are replaced by ‘until 24.00 on 17 June 2003.’

*Article 2*

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 28 May 2003.

*For the Commission*  
David BYRNE  
*Member of the Commission*

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ANNEX

On the German territory: the area of the *Land* of North Rhine-Westphalia located west of the Rhine.

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