

# COMMISSION

## COMMISSION DECISION

of 23 December 2003

### amending Decision 2003/749/EC on a first financial contribution from the Community towards the eligible costs of the eradication of avian influenza in Belgium in 2003

(notified under document number C(2003) 5010)

(Only the Dutch and French texts are authentic)

(Text with EEA relevance)

(2004/18/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field <sup>(1)</sup>, and in particular Articles 3(3) and 5(3) thereof,

Whereas:

- (1) Since 25 April 2003 measures have been taken to prevent the spread of avian influenza in Belgium pursuant to Commission Decision 2003/289/EC of 25 April 2003 concerning protection measures in relation to avian influenza in Belgium <sup>(2)</sup>.
- (2) In Decision 2003/289/EC, Belgium was required to ensure the preventive depopulation of poultry holdings at risk and the culling of other poultry and birds which are considered to be at risk within restricted zones and in fixed delimited zones.
- (3) Belgium took the necessary precautionary measures in order to avoid the spread of avian influenza.
- (4) Avian influenza represents a serious danger to Community stocks. Accordingly, to prevent the spread of that disease and contribute to its eradication, the Community should contribute to eligible expenditures incurred by Belgium. It is therefore appropriate that a financial contribution from the Community should be granted to Belgium in accordance with Decision 90/424/EEC to cover the costs related to these precautionary measures taken in 2003.

- (5) Commission Decision 2003/749/EC of 10 October 2003 on a first financial contribution from the Community towards the eligible costs of the eradication of avian influenza in Belgium in 2003 <sup>(3)</sup> provided for an advance of EUR 1,250 million for the compulsory culling of the animals and the compulsory destruction of the eggs in 2003. However, it is now possible to estimate with a greater degree of certainty how much compensation will be payable.

- (6) Belgium provided also data on the costs incurred for the execution of the measures imposed by Decision 2003/289/EC.

- (7) According to the information made available, the total estimated cost for the compensation of the owners of the animals and the eggs is EUR 6 160 017.

- (8) On condition that the necessary credits are made available in 2003, it is appropriate for the Community to contribute to the costs incurred by Belgium and to increase the advance payment to EUR 3 million.

- (9) Belgium introduced on 4 September 2003 a justified request for the extension of the deadline for the presentation of the claim for the compensations granted for the destroyed hatching eggs and culled one-day-old chickens following the restrictions imposed to the transport pursuant 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>(4)</sup>; the provisions of Article 3(3) should be updated accordingly.

<sup>(1)</sup> OJ L 224, 18.8.1990, p. 19. Decision as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

<sup>(2)</sup> OJ L 105, 26.4.2003, p. 24. Decision as last amended by Decision 2003/388/EC (OJ L 133, 29.5.2003, p. 92).

<sup>(3)</sup> OJ L 271, 22.10.2003, p. 19.

<sup>(4)</sup> OJ L 224, 18.8.1990, p. 2. 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).

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

— 100 % for payments beyond 136 days after the culling of the animals or the destruction of the eggs.

HAS DECIDED AS FOLLOWS:

*Article 1*

Decision 2003/749/EC is amended as follows:

1. The title of Decision 2003/749/EC is replaced by the following:

'Decision 2003/749/EC on the financial contribution from the Community towards the eligible costs of the eradication of avian influenza in Belgium in 2003'.

2. Article 1(a) is replaced by:

'(a) the swift and adequate compensation of the owners for their animals killed and their eggs destroyed pursuant to:

- Article 10 of Directive 90/425/EEC,
- Article 5 of Directive 92/40/EEC and
- Article 3 of Decision 2003/289/EC

under compulsory eradication measures mentioned under the first and seventh indents of Article 3(2) of Decision 90/424/EEC, related to outbreaks of avian influenza which occurred in 2003, taken pursuant to the above provisions, and in accordance with the present Decision'.

3. Article 3(3) is replaced by the following:

'3. When the compensation payments made by Belgium pursuant to Article 5 of Directive 90/425/EEC and Article 3 of Decision 2003/289/EC are effected after the 90 days deadline laid down in Article 2(a), the eligible amounts shall be reduced for expenditure effected after the deadline as follows:

- 25 % for payments made between 91 and 105 days after the culling of the animals or the destruction of the eggs,
- 50 % for payments made between 106 and 120 days after the culling of the animals or the destruction of the eggs,
- 75 % for payments made between 121 and 135 days after the culling of the animals or the destruction of the eggs,

When the compensation payments made by Belgium pursuant to Article 10 of Directive 90/425/EEC are effected more than 60 days after the notification of this Decision, the eligible amounts shall be reduced for expenditure effected after the deadline in accordance with the following:

- 25 % for payments made between 61 and 75 days,
- 50 % for payments made between 76 and 90 days,
- 75 % for payments made between 91 and 105 days,
- 100 % for payments beyond 106 days.'

4. Article 4 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Subject to the results of the eventual checks referred to in Article 5 and on condition the necessary credits are made available, an advance of EUR 3 million shall be paid on the basis of supporting documents submitted by Belgium concerning the swift and adequate compensation of owners for the compulsory culling of the animals and compulsory destruction of the eggs in 2003 pursuant to Article 10 of Directive 90/425/EEC, Article 5 of Directive 92/40/EEC and Article 3 of Decision 2003/289/EC.'

(b) paragraph 3 is replaced by the following:

'3. The claim referred to in paragraph 2 shall be provided in computerised form in accordance with:

- Annexes Ia and Ib, 60 calendar days for the compensations referred to the second indent of Article 1(a) after the lifting of the restrictions as provided for by Commission Decision 2003/428/EC (\*) and within 90 days for the compensations referred to in the first and third indents of Article 1(a) after notification of the present Decision,
- Annex II within six months after the lifting of the restrictions referred to in the first indent.

When these deadlines are not observed, the financial contribution from the community shall be reduced by 25 % for each month of delay. However, at the justified request of Belgium, the Commission may extend these deadlines.

(\*) OJ L 144, 12.6.2003, p. 15.'

*Article 2*

**Addressee**

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 23 December 2003.

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

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