

COMMISSION DECISION

of 23 December 2003

amending Decision 2003/678/EC on a first financial contribution from the Community towards the eligible costs of the eradication of avian influenza in the Netherlands in 2003*(notified under document number C(2003) 4980)***(Only the Dutch text is authentic)****(Text with EEA relevance)**

(2004/27/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 ⁽¹⁾, and in particular Articles 3(3) and 5(3) thereof,

Whereas:

(1) Since March 2003, a number of measures have been taken to prevent the spread of avian influenza in the Netherlands by a series of decisions, the most recent being Commission Decision 2003/290/EC of 25 April 2003 concerning protective measures in relation to avian influenza in the Netherlands ⁽²⁾.

(2) In Decision 2003/290/EC, and in the two decisions preceding that Decision, namely Commission Decisions 2003/214/EC ⁽³⁾ and 2003/258/EC ⁽⁴⁾, the Netherlands 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 the restricted zones and in fixed delimited zones.

(3) The Netherlands 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 the Netherlands. It is therefore appropriate that a financial contribution from the Community should be granted to the Netherlands in accordance with Decision 90/424/EEC to cover the costs related to the precautionary measures taken in 2003.

(5) Commission Decision 2003/678/EC of 24 September 2003 on a first financial contribution from the Community towards the eligible costs of the eradication of avian influenza in the Netherlands in 2003 ⁽⁵⁾ provided for an advance of EUR 10 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) The Netherlands provided also data on the costs incurred for the execution of the measures imposed by Decisions 2003/214/EC, 2003/258/EC and 2003/290/EC.

(7) According to that information, the total estimated cost for the compensation of the owners of the animals and the eggs is, without prejudice to the outcome of the legal procedures, EUR 82,6 million.

(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 the Netherlands and to increase the advance payment to EUR 40 million.

(9) The Netherlands introduced on 21 October 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 decided 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 ⁽⁶⁾; the provisions of Article 3(3) should be updated accordingly.

(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,

⁽¹⁾ 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).

⁽²⁾ OJ L 105, 26.4.2003, p. 28. Decision as last amended by Decision 2003/443/EC (OJ L 150, 18.6.2003, p. 64).

⁽³⁾ OJ L 81, 28.3.2003, p. 48.

⁽⁴⁾ OJ L 95, 11.4.2003, p. 65.

⁽⁵⁾ OJ L 249, 1.10.2003, p. 53.

⁽⁶⁾ 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).

HAS ADOPTED THIS DECISION:

Article 1

Decision 2003/678/EC is amended as follows:

1. The title of Decision 2003/678/EC is replaced by the following:

'Decision 2003/678/EC on the financial contribution from the Community towards the eligible costs of the eradication of avian influenza in the Netherlands in 2003.'

2. Article 1(a) is replaced by the following:

(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 Decisions 2003/214/EC, 2003/258/EC and 2003/290/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 the Netherlands pursuant to Article 5 of Directive 92/40/EEC and Article 3 of Decisions 2003/214/EC, 2003/258/EC and 2003/290/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 in accordance with the following:

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

When the compensation payments made by the Netherlands 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 provided that the necessary credits are made available, an advance of EUR 40 million shall be paid on the basis of supporting documents submitted by the Netherlands 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 Decisions 2003/214/EC, 2003/258/EC and 2003/290/EC.'

(b) paragraph 3 is replaced by the following:

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

- Annexes IA and IB, within 60 calendar days for the compensations referred to in 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 this 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 the Netherlands, the Commission may extend the deadlines.

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

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 23 December 2003.

For the Commission

David BYRNE

Member of the Commission