

COMMISSION IMPLEMENTING DECISION (EU) 2017/263**of 14 February 2017****on risk mitigating and reinforced biosecurity measures and early detection systems in relation to the risks posed by wild birds for the transmission of highly pathogenic avian influenza viruses to poultry***(notified under document C(2017) 765)***(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 and zootechnical checks applicable in intra-Community 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 avian influenza and repealing Directive 92/40/EEC ⁽³⁾, and in particular Article 63(3) thereof,

Whereas:

- (1) Avian influenza is an infectious viral disease in birds, including poultry. Infections with avian influenza viruses in domestic poultry 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 poultry species. That disease may have a severe impact on the profitability of poultry farming.
- (2) Directive 2005/94/EC sets out the minimum control measures to be applied in the event of an outbreak of that disease in poultry or other captive birds and also provides for certain preventive measures relating to the surveillance and the early detection of avian influenza.
- (3) Directive 2005/94/EC also provides that detailed rules, required by the epidemiological situation, to supplement the minimum control measures laid down in that Directive, may be adopted by the Commission.
- (4) Wild birds, in particular wild migratory water birds, are known to be the natural host for avian influenza viruses of low pathogenicity which they carry, usually without showing signs of that disease, during their seasonal migratory movements. However, since mid-2005, evidence has established that a highly pathogenic avian influenza (HPAI) virus strain of subtype H5N1 is able to infect wild birds and be spread by them over long distances ⁽⁴⁾.
- (5) The presence of avian influenza viruses in wild birds poses a continuing threat for the direct and indirect introduction of these viruses into holdings where poultry or other captive birds are kept with the risk of the subsequent spread of the virus from an infected holding to other holdings.

⁽¹⁾ OJ L 395, 30.12.1989, p. 13.⁽²⁾ OJ L 224, 18.8.1990, p. 29.⁽³⁾ OJ L 10, 14.1.2006, p. 16.⁽⁴⁾ Scientific Opinion of the Panel on Animal Health and Welfare of the European Food Safety Authority on a request from the European Commission on Animal health and welfare aspects of avian influenza and the risk of its introduction into the EU poultry holdings (*The EFSA Journal* (2008) 715, 1–161).

- (6) Commission Decision 2005/734/EC ⁽¹⁾ was adopted following the introduction of the HPAI virus of the H5N1 subtype from South East Asia to Europe by the westward spread of the virus during 2005 in order to reinforce the control measures already laid in Union legislation, in particular in view of the risks posed by the unprecedented intercontinental spread of that HPAI virus by wild birds.
- (7) Decision 2005/734/EC provides for biosecurity and additional risk mitigation measures to reduce the risk of transmission of the HPAI H5N1 virus from wild birds to poultry and other captive birds by preventing direct and indirect contacts between these populations. Decision 2005/734/EC requires Member States to identify the areas of their territory that are at particular risk for the introduction of the HPAI H5N1 virus into holdings where poultry and other captive birds are present, taking into account the epidemiological situation and specific risk factors. Member States are required to apply certain risk mitigation measures in those high risk areas, for example ensure that poultry concerned are confined indoors. Member States are also required to ensure that owners are made more aware of the risks of transmission and of the necessity that biosecurity measures be applied on their holdings.
- (8) Furthermore, Decision 2005/734/EC requires that Member States introduce early detection systems that are aimed at a rapid reporting of any sign of avian influenza in poultry flocks by the owners to the competent veterinary authority which should take into account specific parameters and slight changes in production data.
- (9) Commission Decision 2010/367/EU ⁽²⁾ lays down guidelines for the mandatory implementation by Member States of surveillance programmes for avian influenza in poultry and wild birds including sampling and laboratory testing requirements. It also provides for the competent authorities to be notified without delay of any abnormal mortality or significant disease or mortality in wild birds and in particular in wild migratory water birds.
- (10) During the latter part of 2014 and early part of 2015, the HPAI H5N8 virus was introduced into the Union by wild birds. It caused very low mortality in wild birds, but led to serious outbreaks in poultry or other captive birds in several Member States.
- (11) Since the end of October 2016, a very closely related HPAI H5N8 virus strain has been detected in wild migratory birds, mainly found dead, in 20 Member States, namely in Bulgaria, the Czech Republic, Denmark, Germany, Ireland, Greece, Spain, France, Croatia, Italy, Hungary, the Netherlands, Austria, Poland, Romania, Slovenia, Slovakia, Finland, Sweden and the United Kingdom, as well as in nearby third countries such as Switzerland, Serbia and Ukraine. The majority of outbreaks were confirmed in France, Hungary and Bulgaria in certain areas with a high number of holdings keeping ducks and geese.
- (12) The current epidemiological situation is very dynamic and constantly evolving. Movements of migratory birds continue and Member States' ongoing surveillance activities continue to detect the HPAI H5N8 virus in wild birds. The virus will, therefore, remain a threat for poultry and other captive birds in the Union for the coming months and most likely during further seasonal movements of migratory birds with the risk of further virus transmission between holdings in certain high risk settings.
- (13) The European Food Safety Authority (EFSA) is currently preparing a comprehensive scientific opinion on avian influenza to be finalised in September 2017. However, in view of the current HPAI H5N8 epidemic, the EFSA was requested to provide an urgent assessment of the epidemiological situation and preliminary scientific advice on the suitability of the protective measures laid down at Union level that are in place in relation to the risks posed by wild birds infected with HPAI H5N8.
- (14) On 20 December 2016, the Animal Health and Welfare Panel of the EFSA published the statement: 'Urgent request on avian influenza' ⁽³⁾ confirming that the strict implementation of biosecurity and risk mitigation

⁽¹⁾ Commission Decision 2005/734/EC 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 (OJ L 274, 20.10.2005, p. 105).

⁽²⁾ Commission Decision 2010/367/EU of 25 June 2010 on the implementation by Member States of surveillance programmes for avian influenza in poultry and wild birds (OJ L 166, 1.7.2010, p. 22).

⁽³⁾ EFSA Journal 2017;15(1):4687, 32 pp. doi:10.2903/j.efsa.2016.4687.

measures are the most important means to prevent the transmission of HPAI viruses, of both H5 and H7 subtypes, either directly or indirectly from wild birds into holdings keeping poultry and captive birds. Biosecurity on such holdings should be routine practice and be reinforced during periods of increased risk.

- (15) The EFSA further concluded that passive surveillance of wild birds is the most effective means for the early detection of the presence of HPAI viruses in wild birds and recommends targeting the sampling and testing of wild birds, thereby reinforcing certain provisions concerning wild birds set out in the guidelines on the implementation of the surveillance programmes for avian influenza in wild birds laid down in Annex II to Decision 2010/367/EU.
- (16) The EFSA further refers to the assessment ⁽¹⁾ performed by the European Centre for Disease Prevention and Control (ECDC) which states that to date, no human infections with the current HPAI H5N8 virus have ever been reported worldwide and that further virus characterisation shows that it is still essentially a bird virus without any specific increased affinity for humans.
- (17) The experience gained by the competent authorities of the Member States in the implementation of the measures laid down in Decision 2005/734/EC show that flexibility should be maintained in order to be able to adapt those measures to the epidemiological situation in the individual Member State.
- (18) In order to target the bird populations that are most at risk and to ensure the effectiveness of the measures laid down in this Decision, certain preventive measures should be targeted at holdings keeping poultry.
- (19) The measures laid down in Decision 2005/734/EC should therefore be reviewed and adapted taking into account the current epidemiological situation in poultry and in wild birds in the Member States, the statement on avian influenza published by EFSA on 20 December 2016 and the experience gained by the Member States in the practical implementation of the measures laid down in that Decision.
- (20) The measures laid down in Decision 2005/734/EC have been amended and prolonged several times and are applicable until 31 December 2017. In the interests of clarity of Union legislation, Decision 2005/734/EC should be repealed and replaced by this Decision.
- (21) The measures laid down in this Decision are to be reviewed, if necessary, in the light of the final outcome of the EFSA's scientific opinion on avian influenza which is to be finalised in September 2017.
- (22) The measures laid down in this Decision should apply until 30 June 2018.
- (23) 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

Subject matter and scope

This Decision lays down risk mitigating measures and early detection systems in relation to the risks posed by wild birds for the introduction of the highly pathogenic avian influenza (HPAI) into holdings as well measures to raise awareness among owners of such risks and of the necessity to implement or reinforce biosecurity measures on their holdings.

Article 2

Definitions

For the purposes of this Decision, the definitions set out in Article 2 of Directive 2005/94/EC shall apply.

⁽¹⁾ European Centre for Disease Prevention and Control (ECDC), 2016, RAPID RISK ASSESSMENT: Outbreaks of highly pathogenic avian influenza A(H5N8) in Europe: <http://ecdc.europa.eu/en/publications/Publications/risk-assessment-avian-influenza-H5N8-europe.pdf>

*Article 3***Identification of high risk areas for the introduction of HPAI viruses**

Member States shall identify and review the areas of their territory that are at particular risk for the introduction of HPAI viruses into holdings (hereafter referred to as 'high risk areas') as well as the time period for which such risk persists, taking into account the following matters:

- (a) the epidemiological situation on their territory or on the territory of nearby Member States or third countries, in particular with respect to:
 - (i) the detection of HPAI viruses in wild birds or in faeces collected from them;
 - (ii) outbreaks of HPAI in holdings keeping poultry or other captive birds that are most likely related to the detections of HPAI viruses as referred to in (i);
 - (iii) past detections of HPAI viruses as referred to in (i) and (ii) and the risk of reoccurrences;
- (b) the risk factors for the introduction of HPAI viruses into holdings, in particular with respect to:
 - (i) their location along migratory flyways of birds, in particular where the birds are coming from central and eastern Asia, the Caspian Sea, the Black Sea areas, the Middle East and Africa;
 - (ii) the distance between the holding and wet areas, ponds, swamps, lakes or rivers where migratory birds, in particular those of the orders *Anseriformes* and *Charadriiformes*, may gather;
 - (iii) the location of holdings in areas with a high density of migratory birds, particularly water birds;
 - (iv) poultry kept in open-air holdings, where contact between wild birds and poultry cannot be sufficiently prevented;
- (c) additional risk factors for the spread of HPAI viruses within holdings and between such holdings, in particular, where:
 - (i) the location of the holding is in areas with a high density of holdings;
 - (ii) the intensity of movements of poultry, vehicles and persons within and from holdings and other direct and indirect contacts between holdings is high;
- (d) risk assessments in relation to the relevance of the spread of HPAI viruses by wild birds carried out by the European Food Safety Authority's (EFSA) and by national and international risk assessment bodies;
- (e) the results of surveillance programmes carried out in accordance with Article 4 of Directive 2005/94/EC.

*Article 4***Risk mitigation measures**

1. Depending on the specific epidemiological situation on their territory and for the time needed, Member States shall take appropriate and practicable measures to reduce the risk of the transmission of HPAI viruses from wild birds to poultry in high risk areas.
2. The measures referred to in paragraph 1 shall be directed, in particular, at preventing wild birds, and in particular wild migratory water birds, from coming into direct or indirect contact with poultry, and in particular ducks and geese.
3. Member States shall prohibit the following in the high risk areas:
 - (a) the keeping of poultry in the open air;
 - (b) the use of outdoor water reservoirs for poultry;

- (c) the provision of water to poultry from surface water reservoirs that can be accessed by wild birds;
 - (d) the storage of feed for poultry that is unprotected from wild birds or other animals.
4. As further risk mitigation measures, Member States shall prohibit:
- (a) the gathering of poultry and other captive birds at markets, shows, exhibitions and cultural events;
 - (b) the use of decoy birds of the orders *Anseriformes* and *Charadriiformes* ('decoy birds').
5. Member States shall regularly review the measures they have taken pursuant to paragraphs 1 to 4 in order to adjust and adapt them to take account of the epidemiological situation, including the risks posed by wild birds.

Article 5

Awareness raising and biosecurity measures

Member States shall ensure that the necessary measures are in place to raise awareness of the risks of HPAI among stakeholders active in the poultry sector and to provide them with the most appropriate information on biosecurity measures, in particular the measures to be enforced in high risk areas, by the means best suited to bring such information to their attention.

Article 6

Derogations from the risk mitigation measures laid down in Article 4

1. By way of derogation from Article 4(3) and provided biosecurity measures are in place to prevent risk of the transmission of HPAI viruses, the Member States may authorise the following:
- (a) the keeping of poultry in the open air subject to compliance with the following conditions:
 - (i) the poultry are protected against contact with wild birds with nets or roofs or by other appropriate means; or
 - (ii) the poultry are at least supplied with feed and water indoors or under a shelter which sufficiently discourages the landing of wild birds and thereby prevent contact by wild birds with the feed or water intended for the poultry;
 - (b) the use of outdoor water reservoirs where they are required for animal welfare reasons for certain poultry and they are sufficiently screened against wild water birds;
 - (c) the provision of water to poultry from surface water accessed by wild water birds after treatment that ensures the inactivation of avian influenza viruses.
2. By way of derogation from Article 4(4) and provided biosecurity measures are in place to prevent the risk of the transmission of HPAI viruses the Member States, may authorise the following:
- (a) the gatherings of poultry and other captive birds at markets, shows, exhibitions and cultural events;
 - (b) the use of decoy birds:
 - (i) in the framework of a surveillance programme for avian influenza carried out in accordance with Article 4 of Directive 2005/94/EC, research projects, ornithological studies or any other activity approved by the competent authority; or
 - (ii) in accordance with appropriate biosecurity measures and provisions, which are aimed at preventing HPAI virus transmission to poultry.

*Article 7***Early detection systems in poultry flocks**

1. Member States shall introduce or reinforce early detection systems aimed at rapid reporting by the owners to the competent authority of any sign of avian influenza in poultry flocks kept on holdings located in high risk areas.
2. The systems referred to in paragraph 1 shall at least consider a significant drop in feed and water intake and in egg production, the observed mortality rate and any clinical sign or post-mortem lesion suggesting HPAI virus presence taking into account a variation of these parameters in different poultry species and production types.

*Article 8***Increased surveillance in wild birds**

1. The competent authority shall ensure that increased passive surveillance of wild bird populations and further monitoring for dead or sick birds is carried out in accordance with the guidelines on the implementation of surveillance programmes for avian influenza in wild birds set out in Annex II to Decision 2010/367/EU specifically paying attention to the list of target species for sampling and laboratory testing set out in that Decision and other wild bird species having shown to become infected with HPAI viruses.
2. The competent authority may target sampling and laboratory testing of wild birds on species and geographical areas previously unaffected by HPAI.

*Article 9***Compliance and information obligations**

Member States shall keep the Commission informed of the measures that they take to comply with this Decision and if any derogations are granted in accordance with Article 6.

*Article 10***Repeals**

Decision 2005/734/EC is repealed.

*Article 11***Applicability**

This Decision shall apply until 30 June 2018.

*Article 12***Addressees**

This Decision is addressed to the Member States.

Done at Brussels, 14 February 2017.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission
