COMMISSION DECISION

of 23 December 2003

on the financial contribution from the Community towards the eligible costs of the eradication of avian influenza in the Germany in 2003

(notified under document number C(2003) 5009)

(Only the German text is authentic)

(Text with EEA relevance)

(2004/51/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], as last amended by Regulation (EC) No 806/2003 [2], and in particular Article 3(3) and Article 5(3) thereof,

Whereas:

(1) As soon as the presence of avian influenza was officially confirmed in 2003, Germany reported that it had immediately implemented the control measures to be applied in the event of an outbreak of that disease as provided for in Council Directive 92/40/EEC of 19 May 1992 introducing Community measures for the control of avian influenza [3], as last amended by Regulation (EC) No 806/2003, as required in order to obtain a financial contribution from the Community for the eradication of the disease in accordance with Decision 90/424/EEC.

(2) Avian influenza represents a serious danger to Community stocks. Accordingly, in order to prevent the spread of that disease and contribute to its eradication, the Community should contribute to eligible expenditures incurred by Germany. It is therefore appropriate that a financial contribution from the Community should be granted to Germany under the provisions of Decision 90/424/EEC in order to cover the costs related to the outbreak of avian influenza in 2003.

(3) It is necessary to clarify the concepts of 'swift and adequate compensation of the livestock farmers' and 'destruction, cleaning, disinfection and disinsectisation costs' used in Article 3 (2) of Decision 90/424/EEC and the concepts of 'reasonable payments' and 'justified payments' mentioned in the present Decision.

(4) Pursuant to Article 3(2) of Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agriculture policy [4], veterinary and plant health measures undertaken in accordance with Community rules are to be financed under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund. For financial control purposes, Articles 8 and 9 of Regulation (EC) No 1258/1999 apply.

(5) Having regard to the uncertainty on the final eligible amount needed to compensate the outbreak of the disease, the financial contribution at this stage should be limited to an advance of EUR 135 000, for the eligible costs incurred for the obligatory culling of the animals and the obligatory destruction of the eggs.

(6) The financial contribution from the Community should be granted provided that the actions planned are carried out efficiently and that the competent authorities supply all the necessary information within the time limits laid down in this Decision.

(7) 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 DECIDED AS FOLLOWS:

Article 1

Payment of a financial contribution from the Community to Germany

Germany may obtain a financial contribution from the Community of 50 % of the eligible expenditure for:

(a) the swift and adequate compensation of the owners for their animals killed and their eggs destroyed pursuant to Article 10 of Council Directive 90/425/EEC [5] and Article 5 of Directive 92/40/EEC, under compulsory eradication measures mentioned the first and seventh indent of Article 3(2) of Decision 90/424/EEC, related to outbreaks of avian influenza which occurred in 2003, and in accordance with the present Decision;

(b) the costs of the destruction of carcasses, eggs, contaminated feedingstuffs and equipment, the cleaning, disinsectisation and disinfection of holdings and equipment, mentioned in under the first, second and third indents of Article 3(2) of Decision 90/424/EEC, and in accordance with the present Decision.

[1] OJ L 224, 18.8.1990, p. 19.
[2] OJ L 122, 16.5.2003, p. 1.
[3] OJ L 167, 22.6.1992, p. 1.
[4] OJ L 160, 26.6.1999, p. 103.
[5] OJ L 224, 18.8.1990, p. 29.

Article 2

Definitions

For the purpose of this Decision, the following definitions shall apply:

(a) 'swift and adequate compensation' means payment, within 90 days:

— of the culling of the animals, for compensation corresponding to the market value as defined in Article 3(1),

— of the destruction of the eggs, for compensation corresponding to the market value as defined in Article 3(1);

(b) 'reasonable payments' means payments for the purchase of materials or services at proportionate prices compared to the market prices before the outbreak of the avian influenza;

(c) 'justified payments' means payments for the purchase of materials or services of which the nature and the direct link with the compulsory culling of animals or the destruction of the eggs, as referred to in Article 1(a) is demonstrated.

Article 3

The eligible expenditure covered by the financial contribution from the Community

1. The maximum eligible expenditure for the compensation of the owners of the animals and the eggs shall be based on the market value figures for the different types of poultry and eggs at different stages of their life cycle.

2. When the compensation payments made by Germany pursuant to Article 1(a) are effected after the 90-day 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,

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

However, the Commission will apply a different time scale and/or lower reductions or none at all, if exceptional management conditions are encountered for certain measures, or if other well-founded justifications are introduced by Germany.

3. The costs referred to in Article 1(b) eligible for a financial contribution shall only be those set out in Annex III.

4. The calculation of the financial contribution from the Community shall exclude:

(a) value added tax;

(b) salaries of civil servants;

(c) use of public material other than consumables.

Article 4

Conditions for payment and supporting documentation

1. Subject to the results of the eventual checks referred to in Article 5, an advance of EUR 135 000 shall be paid on the basis of supporting documents submitted by Germany 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 and Article 5 of Directive 92/40/EEC.

2. The balance of the financial contribution from the Community shall be fixed in accordance with the procedure laid down in Article 41 of Decision 90/424/EEC on the basis of:

(a) a claim submitted in accordance with Annexes Ia, Ib and II within the time limits provided for in paragraph 3;

(b) detailed documents confirming the figures in the claim referred to in point (a);

(c) the results of the eventual on-the-spot checks by the Commission as referred in Article 5.

The documents referred to in point (b) as well as relevant commercial information shall be made available for on-the-spot checks by the Commission.

3. The claim referred to in paragraph 2(a) shall be provided in computerised form in accordance with Annexes Ia, Ib and II within 60 calendar days after the notification of this Decision.

When these deadlines are not observed, the financial contribution from the Community shall be reduced by 25 % for each month of delay.

Article 5

On-the-spot checks by the Commission

The Commission may make on-the-spot checks, with the cooperation of the competent national authorities, on the implementation of the avian influenza eradication measures and the related costs incurred.

Article 6

Addressee

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 23 December 2003.

For the Commission
David BYRNE
Member of the Commission

ANNEX Ia

ANIMALS

Claim as referred to in Article 4

Outbreak No	
Contact with outbreak No	
Identification No of holding (if applicable	
Owner: Name	
Owner: First name	
Location of the holding or premise	
Date of culling	
Destruction method: Rendering	
Destruction method: Slaughterhouse	
Destruction method: Other (to be explained)	
Weight at the moment of destruction	
Number of animals per category: Poultry: Layers	
Number of animals per category: Poultry: Broilers	
Number of animals per category: Poultry: Breeders	
Number of animals per category: Ducks	
Number of animals per category: Geese	
Number of animals per category: Turkeys	
Number of animals per category: Others	
Amount paid/category: Poultry: Layers	
Amount paid/category: Poultry: Broilers	
Amount paid/category: Poultry: Breeders	
Amount paid/category: Ducks	
Amount paid/category: Geese	
Amount paid/category: Turkeys	
Amount paid/category: Others	
Other costs paid to the owner (without VAT)	
Total compensation (without VAT)	
Date of payment	

ANNEX Ib

EGGS

Claim as referred to in Article 4

Outbreak No	
Contact with outbreak No	
Identification No of holding (if applicable)	
Owner — Name	
Owner — First name	
Location of the holding or premise	
Date of destruction	
Destruction method — Rendering	
Destruction method — Other (to be explained)	
Weight at the moment of destruction	
No of eggs per category — Poultry — Layers	
No of eggs per category — Poultry — Broilers	
No of eggs per category — Poultry — Breeders	
No of eggs per category — Ducks	
No of eggs per category — Geese	
No of eggs per category — Turkeys	
No of eggs per category — Others	
Amount paid/category — Poultry — Layers	
Amount paid/category — Poultry — Broilers	
Amount paid/category — Poultry — Breeders	
Amount paid/category — Ducks	
Amount paid/category — Geese	
Amount paid/category — Turkeys	
Amount paid/category — Others	
Other costs paid to the owner (without VAT)	
Total compensation (without VAT)	
Date of payment	

ANNEX II

Claim as referred to in Article 4

'Other costs' incurred for (if applicable) holding No … or list (excluding compensation for the value of animals)	
Item	Amount without VAT
Culling	
Destruction of carcases (transport and treatment)	
Destruction of eggs (transport and treatment)	
Cleaning and disinfection (salary and products)	
Feedingstuffs (compensation and destruction)	
Equipment (compensation and destruction)	
Total	

ANNEX III

Eligible costs as referred to in Article 3(3)

1. Costs for the culling of the animals:
   (a) salaries and fees of the culling-men specifically employed;
   (b) consumables and specific equipment used for the culling;
   (c) materials used for the transport of the animals to the culling place.
2. Costs for the destruction of carcasses:
   (a) rendering: transport of carcasses to the storage premises and to the rendering plant, storage of carcasses, treatment of carcasses in the rendering plant and destruction of the meal;
   (b) burying: staff specifically employed, materials specifically rented for the transport and the burying of the carcasses and products used for the disinfection of the burying spot;
   (c) burning: staff specifically employed, combustibles or other materials used, materials specifically rented for the transport of the carcasses and products used for the disinfection of the burning plant.
3. Costs for the destruction of the eggs: salaries and fees for the staff specifically employed, combustibles or other materials used, materials specifically rented for the transport of the eggs and products used for the disinfection of the destruction spot.
4. Costs for the cleaning, disinfection and disinsectisation of holdings:
   (a) products used for cleaning, disinfection and disinsectisation;
   (b) salaries and fees for the staff specifically employed.
5. Costs for the destruction of contaminated feedingstuffs:
   (a) compensation at purchase price of the feedingstuffs;
   (b) materials specifically rented for the transport and destruction of the feedingstuffs.
6. Cost for the compensation of contaminated equipment at market value and destruction of such equipment. Costs of compensation for reconstruction or renewal of farm buildings and infrastructure costs are ineligible.