COMMISSION IMPLEMENTING REGULATION (EU) 2019/1323

of 2 August 2019

on exceptional market support measures for the eggs and poultrymeat sectors in Italy

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ([1]), and in particular Article 220(1)(a) thereof,

Whereas:

(1) Between 1 October 2017 and 30 June 2018, 45 outbreaks of highly pathogenic avian influenza of subtype H5 were confirmed and notified by Italy. The species affected are ducks, turkeys, Guinea fowls and *Gallus domesticus*.

(2) Italy immediately and efficiently took all the necessary animal health and veterinary measures required in accordance with Council Directive 2005/94/EC ([2]).

(3) In particular, Italy took control, monitoring and preventive measures and established protection and surveillance zones ('the regulated zones') pursuant to Commission Implementing Decisions (EU) 2017/1845 ([3]), (EU) 2017/1930 ([4]), (EU) 2017/1969 ([5]), (EU) 2017/2000 ([6]), (EU) 2017/2175 ([7]), (EU) 2017/2289 ([8]), (EU) 2017/2412 ([9]), (EU) 2018/342 ([10]), (EU) 2018/418 ([11]) and (EU) 2018/510 ([12]).

(4) Italy informed the Commission that the necessary health and veterinary measures, which had been applied to contain and eradicate the spread of the disease, had affected a very large number of operators and that those operators suffered income losses not eligible for Union financial contribution under Regulation (EU) No 652/2014 of the European Parliament and of the Council ([13]).

([1]) OJ L 347, 20.12.2013, p. 671.

([2]) Council Directive 2005/94/EC of 20 December 2005 on Community measures for the control of avian influenza and repealing Directive 92/40/EEC (OJ L 10, 14.1.2006, p. 16).

([3]) Commission Implementing Decision (EU) 2017/1845 of 11 October 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 262, 12.10.2017, p. 7).

([4]) Commission Implementing Decision (EU) 2017/1930 of 20 October 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 272, 21.10.2017, p. 18).

([5]) Commission Implementing Decision (EU) 2017/1969 of 27 October 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 279, 28.10.2017, p. 56).

([6]) Commission Implementing Decision (EU) 2017/2000 of 6 November 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 289, 8.11.2017, p. 9).

([7]) Commission Implementing Decision (EU) 2017/2175 of 21 November 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 306, 22.11.2017, p. 31).

([8]) Commission Implementing Decision (EU) 2017/2289 of 11 December 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 328, 12.12.2017, p. 126).

([9]) Commission Implementing Decision (EU) 2017/2412 of 20 December 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 342, 21.12.2017, p. 29).

([10]) Commission Implementing Decision (EU) 2018/342 of 7 March 2018 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of highly pathogenic avian influenza in certain Member States (OJ L 65, 8.3.2018, p. 43).

([11]) Commission Implementing Decision (EU) 2018/418 of 16 March 2018 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of highly pathogenic avian influenza in certain Member States (OJ L 75, 19.3.2018, p. 27).

([12]) Commission Implementing Decision (EU) 2018/510 of 26 March 2018 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of highly pathogenic avian influenza in certain Member States (OJ L 83, 27.3.2018, p. 16).

([13]) Regulation (EU) No 652/2014 of the European Parliament and of the Council of 15 May 2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005 of the European Parliament and of the Council, Directive 2009/128/EC of the European Parliament and of the Council and Regulation (EC) No 1107/2009 of the European Parliament and of the Council and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC (OJ L 189, 27.6.2014, p. 1).

(5) On 28 January 2019, the Commission received a formal request from Italy for part-financing of certain exceptional measures pursuant to Article 220(3) of Regulation (EU) No 1308/2013 for the outbreaks confirmed between 1 October 2017 and 30 June 2018. On 19 February 2019, 28 February 2019, 1 April 2019, 30 May 2019 and 12 June 2019 Italian authorities clarified and documented their request.

(6) As a result of the animal health and veterinary measures referred to in recital 3, fallowing periods were prolonged, placing of birds was prohibited and movements were restricted on holdings of all types of poultry in the regulated zones established following outbreaks of highly pathogenic avian influenza of subtype H5. This concerned the following species: ducks, turkeys, Guinea fowls and *Gallus domesticus*. This led to a loss of production of hatching eggs, consumption eggs, live animals and poultry meat in these holdings. It is therefore appropriate to compensate losses due to destroyed and processed eggs as well as non-produced animals, longer rearing or culling.

(7) In accordance with Article 220(5) of Regulation (EU) No 1308/2013, the Union part-financing has to be equivalent to 50 % of the expenditure borne by Italy for the exceptional market support measures. The maximum quantities eligible for financing in respect of each exceptional market support measure should be fixed by the Commission after scrutinising the request related to outbreaks confirmed between 1 October 2017 and 30 June 2018 received from Italy.

(8) To avoid any risk of overcompensation, the flat rate amount of part-financing should be based on technical and economic studies or accounting documents and fixed at an appropriate level for each animal and product according to categories.

(9) To avoid any risk of double funding, losses suffered should not have been compensated by state aid or insurance and the Union part-financing under this Regulation should be limited to eligible animals and products for which no Union financial contribution has been received under Regulation (EU) No 652/2014.

(10) The extent and duration of the exceptional market support measures provided for in this Regulation should be limited to what is strictly necessary to support the market. In particular, the exceptional market support measures should apply only to the production of eggs and poultry in the holdings located in the regulated zones and for the duration of the animal health and veterinary measures laid down in the Union and Italian legislation relevant to the 45 outbreaks of highly pathogenic avian influenza confirmed between 1 October 2017 and 30 June 2018, and to the respective regulated zones.

(11) To ensure flexibility in case the numbers of eggs or animals eligible for compensation differ from the maximum numbers set in this Regulation which are based on estimates, compensation may be adjusted within certain limits, as long as the maximum amount of expenditure part-financed by the Union is respected.

(12) For the sake of a sound budgetary management of these exceptional market support measures, only those payments made by Italy to beneficiaries by 30 September 2020 at the latest, should be eligible for Union part-financing. Article 5(2) of Commission Delegated Regulation (EU) No 907/2014 ([14]) should not be applicable.

(13) In order to ensure the eligibility and the correctness of the payments, Italy should carry out *ex-ante* checks.

(14) To allow the Union to perform its financial control, Italy should communicate to the Commission the clearance of payments.

(15) In order to ensure an immediate implementation of the measures laid down in this Regulation by Italy, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(16) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

([14]) Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro (OJ L 255, 28.8.2014, p. 18).

HAS ADOPTED THIS REGULATION:

Article 1

The Union shall provide part-financing equivalent to 50 % of the expenditure borne by Italy to support the market of hatching eggs, consumption eggs and poultry meat seriously affected by the 45 outbreaks of highly pathogenic avian influenza of subtype H5 which were detected and notified by Italy between 1 October 2017 and 30 June 2018.

Article 2

Expenditure borne by Italy shall be eligible for Union part-financing only:

(a) for the duration of the application of animal health and veterinary measures referred to in Union and Italian legislation listed in the Annex and related to the period laid down in Article 1; and

(b) for those poultry holdings that have been subject to the animal health and veterinary measures and located in the zones referred to in Union and Italian legislation listed in the Annex ('the regulated zones'); and

(c) if it has been paid by Italy to the beneficiaries by 30 September 2020 at the latest. Article 5(2) of Delegated Regulation (EU) No 907/2014 shall not apply; and

(d) if the animal or product, for the period referred to in point (a), has not benefitted from any compensation by means of state aid or insurance and for which no Union financial contribution has been received under Regulation (EU) No 652/2014.

Article 3

1. The maximum amount of Union part-financing shall be EUR 32 147 498, detailed as follows:

(a) for the loss of production of poultry located in the regulated zone, the following flat rates shall apply:

(i) EUR 0,1050 per hatching egg falling within the CN code 0407 11 00, destructed, up to a maximum of 406 355 eggs,

(ii) EUR 0,07 per hatching egg falling within the CN code 0407 11 00, processed into egg products, up to a maximum of 18 211 121 eggs,

(iii) EUR 0,0167 per egg falling within the CN code 0407 11 00, processed into egg products up to a maximum of 28 730 220 eggs,

(iv) EUR 0,064 per week per broiler falling within the CN code 0105 94 00 up to a maximum of 50 390 617 animals,

(v) EUR 0,13 per week per cage laying hen falling within the CN code 0105 94 00 up to a maximum of 391 246 animals,

(vi) EUR 0,17 per week per barn laying hen falling within the CN code 0105 94 00 up to a maximum of 1 933 867 animals,

(vii) EUR 0,045 per week per cage pullet falling within the CN code 0105 94 00 up to a maximum of 185 900 animals,

(viii) EUR 0,055 per week per barn pullet falling within the CN code 0105 94 00 up to a maximum of 265 136 animals,

(ix) EUR 0,194 per week per fattening duck falling within the CN code 0105 99 10 up to a maximum of 140 000 animals,

(x) EUR 0,13 per week per female fattening turkey falling within the CN code 0105 99 30 up to a maximum of 3 263 749 animals,

(xi) EUR 0,215 per week per male fattening turkey falling within the CN code 0105 99 30 up to a maximum of 6 140 730 animals,

(xii) EUR 0,1475 per week per Guinea fowl falling within the CN code 0105 99 50 up to a maximum of 392 869 animals;

(b) for losses related to the adjustment of rearing period due to transfer ban in the regulated zones, the following flat rates shall apply per animal:

(i) EUR 0,115 per week per standard pullet falling within the CN code 0105 94 00 up to a maximum of 323 784 animals,

(ii) EUR 0,12 per week per standard broiler falling within the CN code 0105 94 00 up to a maximum of 5 600 animals,

(iii) EUR 3,06 per over-sized capon falling within the CN code 0105 94 00 up to a maximum of 2 000 animals,

(iv) EUR 1,0534 per turkey falling within the CN code 0105 99 30 up to a maximum of 11 021 animals,

(v) EUR 0,5627 per week per over-sized young turkey falling within the CN code 0105 99 30 up to a maximum of 12 662 animals;

(c) for culling of poultry in the regulated zones, the following flat rates shall apply per animal:

(i) EUR 0,19 per chicken falling within the CN code 0105 11 19 up to a maximum of 40 908 animals,

(ii) EUR 0,2015 per rural chicken falling within the CN code 0105 11 19 up to a maximum of 1 455 308 animals,

(iii) EUR 0,565 per female turkey falling within the CN code 0105 12 00 up to a maximum of 847 257 animals,

(iv) EUR 1,03 per male turkey falling within the CN code 0105 12 00 up to a maximum of 586 923 animals;

(d) for loss of production of breeders located in the regulated zones, the following flat rates shall apply per animal:

(i) EUR 0,135 per week per broiler falling within the CN code 0105 94 00 up to a maximum of 1 621 820 animals,

(ii) EUR 1,185 per week per turkey falling within the CN code 0105 99 30 up to a maximum of 128 689 animals.

2. Where the number of eggs or animals eligible for compensation exceeds the maximum number of eggs or animals per item set in paragraph 1, expenditure eligible for Union part-financing may be adjusted per item and go beyond the amounts resulting from the application of the maximum numbers per item, provided that the total of adjustments remains below 10 % of the maximum amount of expenditure part-financed by the Union referred to in paragraph 1.

Article 4

Italy shall carry out administrative and physical checks in accordance with Articles 58 and 59 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council ([15]).

In particular, Italy shall verify:

(a) the eligibility of the applicant submitting the request for support;

(b) for each eligible applicant: the eligibility, the quantity and the value of the actual loss of production;

(c) that funding has not been received by any eligible applicant from any other sources to compensate the losses referred to in Article 2 of this Regulation.

For eligible applicants for which administrative checks are completed, aid can be paid without waiting for all checks being made, notably those on applicants selected for on-the-spot checks.

In cases where the eligibility of an applicant was not confirmed, the aid shall be recovered and sanctions applied.

([15]) Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549).

Article 5

Italy shall communicate to the Commission the clearance of payments.

Article 6

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 August 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Regulated zones and periods as referred to in Article 2

Parts of Italy and periods established in accordance with Directive 2005/94/EC and defined in:

— Commission Implementing Decision (EU) 2017/1845 of 11 October 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 262, 12.10.2017, p. 7),

— Commission Implementing Decision (EU) 2017/1930 of 20 October 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 272, 21.10.2017, p. 18),

— Commission Implementing Decision (EU) 2017/1969 of 27 October 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 279, 28.10.2017, p. 56),

— Commission Implementing Decision (EU) 2017/2000 of 6 November 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 289, 8.11.2017, p. 9),

— Commission Implementing Decision (EU) 2017/2175 of 21 November 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 306, 22.11.2017, p. 31),

— Commission Implementing Decision (EU) 2017/2289 of 11 December 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 328, 12.12.2017, p. 126),

— Commission Implementing Decision (EU) 2017/2412 of 20 December 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 342, 21.12.2017, p. 29),

— Commission Implementing Decision (EU) 2018/342 of 7 March 2018 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of highly pathogenic avian influenza in certain Member States (OJ L 65, 8.3.2018, p. 43),

— Commission Implementing Decision (EU) 2018/418 of 16 March 2018 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of highly pathogenic avian influenza in certain Member States (OJ L 75, 19.3.2018, p. 27),

— Commission Implementing Decision (EU) 2018/510 of 26 March 2018 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of highly pathogenic avian influenza in certain Member States (OJ L 83, 27.3.2018, p. 16),

— Health Ministry Orders declaring an infection following outbreaks of highly pathogenic avian influenza confirmed between 1 October 2017 and 30 June 2018.