



Brussels, 30.1.2023  
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**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 30.1.2023**

**amending Delegated Regulation (EU) 2020/687 supplementing Regulation (EU) 2016/429  
of the European Parliament and the Council as regards rules for the prevention and  
control of certain listed diseases**

(Text with EEA relevance)

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

Commission Delegated Regulation (EU) 2020/687<sup>1</sup> lays down rules supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council ('Animal Health Law')<sup>2</sup> as regards the prevention and control of certain listed diseases, notably category A, B and C diseases. Among others, Delegated Regulation (EU) 2020/687 provides for establishment of restricted zones, for restrictions and conditions for movements of animals and products thereof within and from restricted zones as part of the measures to control the spread of category A diseases. Such measures should be proportionate to the risks involved. This Delegated Regulation therefore amends certain Articles of Delegated Regulation (EU) 2020/687 and certain Annexes thereto to align those measures with the risk involved in certain circumstances.

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

The Commission held one meeting of the Expert Group on animal health (E00930) on 29 November 2021 and had further exchanges within the same Expert Group. The draft Delegated Regulation was also made available to the European Parliament and the Council neither of which submitted any comments.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

This Delegated Regulation is to be adopted within the framework of Regulation (EU) 2016/429, and in particular pursuant to Article 67 thereof.

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<sup>1</sup> Commission Delegated Regulation (EU) 2020/687 of 17 December 2019 supplementing Regulation (EU) 2016/429 of the European Parliament and the Council, as regards rules for the prevention and control of certain listed diseases (OJ L 174, 3.6.2020, p. 64).

<sup>2</sup> Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') (OJ L 84, 31.3.2016, p. 1).

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law')<sup>1</sup>, and in particular Article 67 thereof,

Whereas:

- (1) Regulation (EU) 2016/429 lays down rules for the prevention and control of animal diseases which are transmissible to animals or to humans, including rules on disease awareness, preparedness and control. In particular, Regulation (EU) 2016/429 lays down disease-specific rules for the prevention and control of diseases listed in its Article 5.
- (2) Commission Delegated Regulation (EU) 2020/687<sup>2</sup> lays down rules supplementing Regulation (EU) 2016/429 as regards the prevention and control of certain listed diseases, notably category A, B and C diseases in accordance with Commission Implementing Regulation (EU) 2018/1882<sup>3</sup>. More particularly, Delegated Regulation (EU) 2020/687 provides for the establishment of a restricted zone in the event of an outbreak of a category A disease and for restrictions and conditions for movements of animals and products thereof within and from restricted zones, as part of the measures to control the spread of category A diseases.
- (3) Delegated Regulation (EU) 2020/687 and Commission Delegated Regulation (EU) 2020/692<sup>4</sup> provide different definitions for 'casings', the correct definition being the one laid down in Delegated Regulation (EU) 2020/692. To ensure coherence among the provisions of the delegated acts supplementing the animal health requirements laid down in Regulation (EU) 2016/429, the definition for 'casings' laid down in

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<sup>1</sup> OJ L 84, 31.3.2016, p. 1.

<sup>2</sup> Commission Delegated Regulation (EU) 2020/687 of 17 December 2019 supplementing Regulation (EU) 2016/429 of the European Parliament and the Council, as regards rules for the prevention and control of certain listed diseases (OJ L 174, 3.6.2020, p. 64).

<sup>3</sup> Commission Implementing Regulation (EU) 2018/1882 of 3 December 2018 on the application of certain disease prevention and control rules to categories of listed diseases and establishing a list of species and groups of species posing a considerable risk for the spread of those listed diseases (OJ L 308, 4.12.2018, p. 21).

<sup>4</sup> Commission Delegated Regulation (EU) 2020/692 of 30 January 2020 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for entry into the Union, and the movement and handling after entry of consignments of certain animals, germinal products and products of animal origin (OJ L 174, 3.6.2020, p. 379).

Delegated Regulation (EU) 2020/687 should therefore be corrected and aligned with the one in Delegated Regulation (EU) 2020/692.

- (4) Article 23, point (c), of Delegated Regulation (EU) 2020/687 provides for the possibility for the competent authority to grant derogations from the measures to be applied in the restricted zone in case an outbreak of a category A disease occurs in an establishment keeping up to 50 captive birds, but not from the obligation to establish a restricted zone, which derives from the provisions laid down in Article 21 of that Delegated Regulation. This obligation may create unnecessary trade constraints and impose an unjustified burden on operators and competent authorities.
- (5) The disease control measures provided for in Delegated Regulation (EU) 2020/687 should be proportionate to the risks involved. In certain circumstances, if an establishment where up to 50 captive birds are kept has no direct or indirect contact with other establishments where poultry or captive birds are kept, the risk of such outbreak to contribute to the spread of the disease may be insignificant. For that reason, the competent authorities should be allowed to derogate from the establishment of a restricted zone when an outbreak of a category A disease occurs in an establishment keeping up to 50 captive birds, if a risk assessment carried out by the competent authority provides that the establishment does not have direct or indirect contact with poultry or other establishments keeping captive birds.
- (6) Therefore, Article 21(3) of Delegated Regulation (EU) 2020/687 should be amended to include establishments keeping up to 50 captive birds among the locations where, if an outbreak of a category A disease occurs, the competent authority may decide in certain circumstances whether or not to establish a restricted zone.
- (7) Articles 28 and 43 of Delegated Regulation (EU) 2020/687 lay down the general conditions to grant derogations from the prohibitions of movements of animals and products in the protection and surveillance zones, respectively. These general conditions specify the measures to be applied by the competent authority to ensure that the risk of spreading a category A disease with such movements is negligible. These measures include certain strict supplementary biosecurity measures during all transport operations from the establishment of origin until the unloading in the establishment of destination, which is, in accordance with Articles 28 and 43 of Delegated Regulation (EU) 2020/687, designated by the competent authority of the establishment of origin. When the competent authority of the establishment of origin is different from the competent authority of the establishment of destination, the competent authority of origin may not be able to ensure the implementation of all these measures, in particular to know the location of the establishments with animals of listed species, to select a route avoiding those locations, or to ensure that supplementary biosecurity measures are implemented at the unloading in the designated establishment of destination.
- (8) Moreover, if the competent authority of the establishment of origin is different from the competent authority of the designated establishment of destination, the competent authority of the establishment of origin should inform the competent authority of the establishment of destination about such designation. However, to ensure the correct implementation of all the measures laid down by Articles 28 and 43 of Delegated Regulation (EU) 2020/687, the designation of the establishment of destination should be done in cooperation between the competent authority of the establishment of origin and that of the establishment of destination. Therefore, Articles 28(3) and 43(3) of Delegated Regulation (EU) 2020/687 should be amended accordingly.

- (9) Articles 30(2) and 46(2) of Delegated Regulation (EU) 2020/687 provide for the specific conditions for authorising movements of ready-to-lay poultry from establishments located in the protection and surveillance zones established in response to an outbreak of a category A disease, respectively. In accordance with these Articles, the competent authority may authorise such movements only if there is no other kept animal of listed species in the establishment of destination. In practice, in some cases, the establishments of laying hens where the ready-to-lay poultry are moved to may consist of several epidemiological units, as defined in Article 4, point (39), of Regulation (EU) 2016/429, which have to be populated at different times to be able to ensure a steady production of eggs over the year. Therefore, Articles 30(2) and 46(2) of Delegated Regulation (EU) 2020/687 should be amended, to offer the possibility that ready-to-lay poultry from protection or surveillance zone may be moved as well in an empty epidemiological unit within an establishment where animals of listed species are kept in other epidemiological units.
- (10) Articles 39 and 55 of Delegated Regulation (EU) 2020/687 lay down the conditions for lifting the control measures applied in the protection and surveillance zones, respectively. Preliminary cleaning and disinfection are essential measures that must be performed effectively to avoid spreading the category A disease from the affected establishment. The procedures for cleaning and disinfection are set out in points A and B of Annex IV to that Delegated Regulation. According with these procedures, the preliminary cleaning and disinfection is completed if the disinfectant has remained on the treated surface for at least 24 hours. As a well-known principle for the control and eradication of category A diseases, the minimum period of duration of the measures to be implemented in the restricted zones is counted only after completion of the preliminary cleaning and disinfection.
- (11) The current text of Articles 39 and 55 of Delegated Regulation (EU) 2020/687 is not clear about the starting point for the minimum period of duration of the measures to be implemented in the protection and surveillance zones and it may lead to different implementation of that requirement by the Member States. Therefore, Articles 39 and 55 of Delegated Regulation (EU) 2020/687 should be amended to clearly specify the starting point for the counting of the minimum period of duration of the measures in the protection and surveillance zones.
- (12) Article 31(1), point (a), of Delegated Regulation (EU) 2020/687 allows the competent authority to authorise the movement of hatching eggs from an establishment located in the protection zone to a hatchery located in the same Member State, which includes the movement of hatching eggs from an establishment located in the protection zone to a hatchery located in the surveillance zone. However, in accordance with the provisions laid down in Article 46(1), point (a), of that Delegated Regulation, movements of day-old chicks originating in the surveillance zone to establishments in the same Member State may be authorized only if they were hatched from eggs originating in establishments within the surveillance zone. Therefore, under Article 46(1), point (a), of Delegated Regulation (EU) 2020/687, the competent authority is not allowed to authorise movements from the surveillance zone of day-old chicks hatched from eggs originating in establishments within the protection zone.
- (13) Article 30(1), point (a), of Delegated Regulation (EU) 2020/687 allows the movement of day-old chicks from an establishment located in the protection zone, if they hatched from eggs originating in the restricted zone. Consequently, according with Article 30(1), point (a) of Delegated Regulation (EU) 2020/687, movement from the restriction zone of day-old chicks hatched from eggs originating from establishments

within the protection zone may be authorised by the competent authority, if certain conditions are fulfilled. The competent authority should also be able to authorise, if similar conditions are fulfilled, movement from the surveillance zone of day-old chicks hatched from eggs originating in establishments within the protection zone. Therefore, article 46(1), point (a), should be amended accordingly.

- (14) Article 52 of Delegated Regulation (EU) 2020/687 provides for the specific conditions to be fulfilled when the competent authority authorises movements of feed materials of plant origin and straw produced in the surveillance zone. With the current wording of Article 52 of Delegated Regulation (EU) 2020/687 it can be understood that all conditions listed in points (a) to (d) of that Article have to be fulfilled. However, Article 52, point (d) of Delegated Regulation (EU) 2020/687 refers to the case where the feed materials of plant origin and straw have undergone at least one of the risk-mitigation treatments set out in Annex VIII to that Delegated Regulation. Consequent to the application of the risk-mitigation treatment, the feed materials of plant origin and straw become safe commodities and therefore may be moved outside the surveillance zone. In addition, Article 36 of Delegated Regulation (EU) 2020/687 provides for the specific conditions for authorising the movement of feed materials of plant origin and straw from the protection zone. In accordance with Article 36 of Delegated Regulation (EU) 2020/687, movements of feed materials of plant origin and straw from the protection zone may be authorised if they have undergone at least one of the risk-mitigating treatments in accordance with Annex VIII to Delegated Regulation (EU) 2020/687. Moreover, the conditions set out in Article 52, points (a) to (d) of Delegated Regulation (EU) 2020/687 are similar to the ones laid down in Article 36 of that Delegated Regulation. Therefore, the movement of feed materials of plant origin and straw produced in the surveillance zone should not be subject to stricter conditions than those applicable to the movement of feed material of plant origin and straw produced in the protection zone. Article 52 of Delegated Regulation (EU) 2020/687 should therefore be corrected to ensure similar restrictions in the surveillance zone as in the protection zone when similar conditions are fulfilled.
- (15) Article 59(2) of Delegated Regulation (EU) 2020/687 lays down the requirements for kept animals of listed species intended for repopulation of establishments affected by an outbreak of a category A disease. Those animals must originate from an establishment that is not located in a restricted zone and subject to disease control measures for category A diseases of kept terrestrial animals, as laid down in Part II, Chapter II, of Delegated Regulation (EU) 2020/687. However, Article 59(2), point (a) of Delegated Regulation (EU) 2020/687 erroneously refers to restrictions provided for in Chapter III of that Delegated Regulation. Therefore, the text in Article 59(2), point (a), of Delegated Regulation (EU) 2020/687 should be corrected to refer to the restrictions provided in Chapter II of that Delegated Regulation.
- (16) Articles 27 and 42 of Delegated Regulation (EU) 2020/687 lay down prohibitions in relation to activities, including movements, concerning animals, products and other materials within, from or to the protection and surveillance zones. The prohibitions are listed in the table set out in Annex VI to that Delegated Regulation. Movements of kept animals of listed species to establishments in the restricted zone are prohibited in accordance with that table, in order to prevent the increase in the population of the kept animals which are susceptible to the category A disease confirmed in that zone. Hatching eggs, if moved to a hatchery located in a restricted zone may lead to production of day-old chicks, which will increase the population of kept animals of listed species in the restricted zone. Therefore, such a movement would be in

contradiction with the purpose of the prohibition of moving kept animals of listed species to establishments in the restricted zone. Consequently, as a general rule, such movement is considered prohibited. However, the table set out in Annex VI to Delegated Regulation (EU) 2020/687 wrongly lists only the prohibition of movement of hatching eggs from establishments in the restricted zone. Therefore, the text in the table set out in Annex VI to Delegated Regulation (EU) 2020/687 should be corrected, to refer also to the prohibition of movements of hatching eggs to establishments in the restricted zone.

- (17) In addition, the prohibition listed in Annex VI to Delegated Regulation (EU) 2020/687 for movements of feed material of plant origin and straw is wrongly limited to the ones obtained in the protection zone, allowing the movements of feed material of plant origin and straw obtained in the surveillance zone, which may pose a risk of spreading the disease. Annex VI to Delegated Regulation (EU) 2020/687 should therefore be corrected to prohibit the movements of feed materials of plant origin and straw obtained in the restricted zone.
- (18) Annex VII to Delegated Regulation (EU) 2020/687 provides for risk-mitigating treatments for products of animal origin, in particular meat, casings and milk, from the restricted zone. Those treatments, which inactivate the disease agents, should be in line with existing Union legislation, international standards and new scientific evidence. The entry in that Annex for sheep pox and goat pox virus for those commodities is currently empty, due to the lack of scientific data or studies concerning treatments obtained so far. Given the recent occurrence in the Union of outbreaks of sheep pox and goat pox, the treatment of meat and milk from caprine and ovine animals originating from the protection and surveillance zones should be made possible for Member States managing such outbreaks. No such treatments were provided for in Annex VII to Delegated Regulation (EU) 2020/687, as the Commission is awaiting the results of a study commissioned to the EU Reference Laboratory for Capripox viruses, or more scientific advice provided by the European Food Safety Authority ('the Authority'). However, taking into account the similarity between sheep pox and goat pox virus and lumpy skin disease virus, both belonging to the family Poxviridae and genus Capripoxvirus, it is appropriate to allow the application of risk-mitigating treatments in the relevant table of Annex VII to Delegated Regulation (EU) 2020/687. The application of the risk-mitigating treatments for sheep pox and goat pox is to be reviewed once further scientific evidence is available.
- (19) In a recent scientific opinion<sup>5</sup>, the Authority has assessed the effectiveness of certain risk-mitigation treatments for products of animal origin and other materials with respect to category A diseases. Among other treatments, the Authority considered that meat heat treatment to achieve a core temperature of 70°C for at least 30 minutes was an effective treatment to inactivate the African swine fever virus. Therefore, based on the new scientific evidence, and in line with the World Organisation for Animal Health (WOAH) international standard<sup>6</sup> related to African swine fever, Annex VII to Delegated Regulation (EU) 2020/687 should be amended accordingly to include an additional risk-mitigating treatment for African swine fever.

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<sup>5</sup> EFSA Journal 2022;20(8):7443.

<sup>6</sup> WOAH Terrestrial Animal Health Code, 30th Edition, 2022. Volumes I and II, ISBN 978-92-95121-28-7; <https://www.woah.org/en/what-we-do/standards/codes-and-manuals/terrestrial-code-online-access/>

- (20) Annex VIII to Delegated Regulation (EU) 2020/687 lays down the ‘risk-mitigation treatments for products not of animal origin from the protection zone’, although references to those treatments are made also in Article 52 of that Delegated Regulation, which relates to specific conditions for authorising the movement of feed materials of plant origin and straw from the surveillance zone. Therefore, the title of Annex VIII to Delegated Regulation (EU) 2020/687 should be corrected to refer to the ‘risk-mitigation treatments for products not of animal origin from the restricted zone’.
- (21) Delegated Regulation (EU) 2020/687 should therefore be amended accordingly,
- HAS ADOPTED THIS REGULATION:

*Article 1*

Delegated Regulation (EU) 2020/687 is amended as follows:

1. in Article 21(3), the following point (g) is added:  
‘(g) establishments keeping up to 50 captive birds, provided that they have no direct or indirect contact with poultry or other establishments keeping captive birds.’;
2. Article 28(3) is replaced by the following:  
‘3. The competent authority of the establishment of origin shall designate the establishment of destination for movements from or to the protection zone. If the competent authority of the establishment of origin is different from the competent authority of the establishment of destination, it shall make that designation in cooperation with the competent authority of the establishment of destination.’;
3. in Article 30(2), point (a) is replaced by the following:  
‘(a) there is no other kept animal of listed species in the establishment or epidemiological unit of destination;’;
4. Article 39(1) is replaced by the following:  
‘1. The competent authority may lift the measures provided for in Sections 1 and 2 of this Chapter only if:  
  - (a) the minimum period set out in Annex X has elapsed following the date of completion of preliminary cleaning and disinfection and, where relevant, control of insects and rodents, performed in accordance with Article 15 in the affected establishment; and
  - (b) in all establishments keeping animals of listed species in the protection zone, animals of listed species have undergone, with favourable results, clinical and, when necessary, laboratory examinations in accordance with Article 26.’;
5. Article 43(3) is replaced by the following:  
‘3. The competent authority of the establishment of origin shall designate the establishment of destination for movements from or to the surveillance zone. If the competent authority of the establishment of origin is different from the competent authority of the establishment of destination, it shall make that designation in cooperation with the competent authority of the establishment of destination.’;

6. Article 46(1), point (a), is amended as follows:
  - (a) the introductory sentence is replaced by the following:

‘(a) to establishments in the same Member State where they were hatched from eggs originating from establishments within the restricted zone, if.’;
  - (b) the following point (iii) is added:

‘(iii) the means of transport is sealed at the moment of loading by the competent authority or under its supervision.’;
7. in Article 46(2), point (a) is replaced by the following:

‘(a) there is no other kept animal of listed species in the establishment or epidemiological unit of destination.’;
8. Article 55(1) is replaced by the following:

‘1. The competent authority may lift the disease control measures applied in the surveillance zone pursuant to Sections 1 and 3 only if:

  - (a) the minimum period set out in Annex XI has elapsed after the date of completion of preliminary cleaning and disinfection and, where relevant, control of insects and rodents, performed in accordance with Article 15 in the affected establishment,
  - (b) the requirements provided for in Article 39(1), point (b), have been met in the protection zone, and
  - (c) a representative number of establishments keeping animals of listed species have undergone, with favourable results, visits carried out by official veterinarians, in accordance with Article 41.’;
9. in Annex VII, the first table, related to meat, casings and milk, is replaced by the table set out in the Annex to this Regulation.

## *Article 2*

Delegated Regulation (EU) 2020/687 is corrected as follows:

1. in Article 2, point (10), the definition for ‘casings’ is replaced by the following:

‘(10) “casings” means the bladders and intestines that after cleaning have been processed by tissue scraping, defatting and washing and have been treated with salt or dried.’;
2. in Article 52, point (c) is replaced by the following:

‘(c) are intended for use within the surveillance zone; or’;
3. in Article 59(2), point (a) is replaced by the following:

‘(a) not originate from an establishment subject to the restrictions provided for in Chapter II; and’;
4. in Annex VI, the table is corrected as follows:
  - (a) the text in the first column of the tenth row of the table is replaced by the following:

‘Movements of hatching eggs to and from establishments in the restricted zone’;

(b) the text in the first column of the last row of the table is replaced by the following:

‘Movements of feed materials of plant origin and straw obtained in the restricted zone’;

5. in Annex VIII, the title is replaced by the following:

**‘RISK-MITIGATING TREATMENTS FOR PRODUCTS NOT OF ANIMAL ORIGIN FROM THE RESTRICTED ZONE’.**

### *Article 3*

This Regulation shall enter into force on the twentieth 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, 30.1.2023

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*