

**COMMISSION IMPLEMENTING DECISION (EU) 2022/937****of 16 June 2022****repealing Decision 2006/563/EC concerning certain protection measures in relation to highly pathogenic avian influenza of subtype H5N1 in wild birds in the Community****(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 71(3) thereof,

Whereas:

- (1) Regulation (EU) 2016/429 empowers the Commission to adopt implementing acts laying down special disease control measures in the framework of the control of outbreaks of listed diseases as referred to in Article 9(1)(a) of Regulation (EU) 2016/429, when disease control measures already taken are found not to be suited to the epidemiological situation.
- (2) Commission Implementing Regulation (EU) 2018/1882 <sup>(2)</sup> categorises highly pathogenic avian influenza (HPAI) as a listed disease as referred to in Article 9(1)(a) of Regulation (EU) 2016/429.
- (3) Commission Decision 2006/563/EC <sup>(3)</sup> lays down certain protection measures to be applied in cases where HPAI caused by the highly pathogenic influenza A virus of subtype H5 is detected and the neuraminidase type N1 (H5N1) is suspected or confirmed in wild birds. The legal basis of that Decision includes Article 9(4) of Council Directive 89/662/EEC <sup>(4)</sup> and Article 10(4) of Council Directive 90/425/EEC <sup>(5)</sup>. Those Directives were repealed on 14 December 2019 by Regulation (EU) 2017/625 of the European Parliament and of the Council <sup>(6)</sup>. Nevertheless, Article 164(2) of Regulation (EU) 2017/625 provides that Article 9 of Directive 89/662/EEC and Article 10 of Directive 90/425/EEC were to continue to apply in relation to the matters governed by Regulation (EU) 2016/429, until the date of application of Regulation (EU) 2016/429. Regulation (EU) 2016/429 started to apply on 21 April 2021.

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

<sup>(2)</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>(3)</sup> Commission Decision 2006/563/EC of 11 August 2006 concerning certain protection measures in relation to highly pathogenic avian influenza of subtype H5N1 in wild birds in the Community and repealing Decision 2006/115/EC (OJ L 222, 15.8.2006, p. 11).

<sup>(4)</sup> 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 (OJ L 395, 30.12.1989, p. 13).

<sup>(5)</sup> 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 (OJ L 224, 18.8.1990, p. 29).

<sup>(6)</sup> Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) (OJ L 95, 7.4.2017, p. 1).

- (4) In addition, the measures laid down in Decision 2006/563/EC are not suited to the current epidemiological situation.
- (5) Decision 2006/563/EC should therefore be repealed.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

*Article 1*

Decision 2006/563/EC is repealed.

*Article 2*

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

Done at Brussels, 16 June 2022.

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

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