



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B – Sustainability

Brussels  
agri.b.4(2022)2270610

Dear [REDACTED]

I would like to thank you for your email of 17 March<sup>1</sup>, in which you explained that you consider that avian influenza outbreaks are a situation of catastrophic circumstances in the Netherlands for poultry producers and that, for this reason, you wish to grant to those affected the possibility to repopulate their farms with older animals than three days old.

I can confirm that outbreaks of avian influenza and the negative impact that such outbreaks might have on organic operators may be qualified as catastrophic circumstances in accordance with Article 22 of Regulation (EU) 2018/848<sup>2</sup> and Commission Delegated Regulation (EU) 2020/2146 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council as regards exceptional production rules in organic production<sup>3</sup>.

As a competent authority, you will have to formally recognise this situation of catastrophic circumstances by a formal decision in accordance with Article 1 of Regulation (EU) 2020/2146 where you shall refer to the area or operators concerned.

In the case you describe in your email, you may need to use the derogations set under Article 3(2) of Regulation (EU) 2020/2146, which states : *“By way of derogation from point 1.3.1 of Part II of Annex II to Regulation (EU) 2018/848, the herd or flock may be renewed or reconstituted with non-organic animals **in the case of high mortality of animals and when organically reared animals are not available, provided that the respective conversion periods specified in point 1.2.2 of Part II of that Annex II are complied with. [...]”***

Under catastrophic circumstances, derogations to use non-organic animals are derogations from point 1.3.1 of part II of Annex II to Regulation (EU) 2018/848, which

<sup>1</sup> Ares (2022)1990895

<sup>2</sup> [CL2018R0848EN0020010.0001.3bi\\_cp 1..1 \(europa.eu\)](https://eur-lex.europa.eu/eli/reg/2018/848/oj)

<sup>3</sup> [EUR-Lex - 32020R2146 - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/eli/reg/2020/2146/oj)

states: ***“without prejudice to the rules on conversion, organic livestock shall be born or hatched and raised on organic production units.”***

These derogations apply ***“without prejudice to the rules on conversion”***, which in the case of poultry are set in point 1.2.2 (c), (d) and (e) of Part II of Annex II to Regulation (EU) 2018/848: ***“conversion periods specific to the type of animal production are set out as follows: [...] (c) 10 weeks for poultry for meat production, except for Peking ducks, brought in before they are three days old; (d) seven weeks for Peking ducks brought in before they are three days old; (e) six weeks in the case of poultry for egg production brought in before they are three days old”***.

The recognition as catastrophic circumstances under the conditions laid down in Regulation 2020/2146 may lead national authorities to grant the derogation set out in Article 3(2) of Regulation 2020/2146. However, this recognition cannot permit any derogation from the rules on conversion periods.

Hence, I can confirm that the rules on conversion for poultry as set in point 1.2.2 (c), (d) and (e) of Part II of Annex II to Regulation (EU) 2018/848 do not allow in practice to introduce non-organic pullets older than 3 days old under catastrophic circumstances into poultry farms.

This opinion is provided on the basis of the facts set out in your letter of 17 March 2022 and expresses the opinion of the Commission services and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the Court of Justice of the European Union to provide a definitive interpretation of the applicable Union law.

Yours sincerely,

