



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B – Sustainability  
The Director

Brussels

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I would like to thank you for your letter of 10 March 2021<sup>1</sup> in which you ask clarifications on the joint implementation of the EU rules on animal health and organic production as regards access to open air areas for poultry. Please accept my apologies for the very late reply; the delay is due to the time needed for assessment and consultation on your requests of clarifications.

In your letter, you asked five different questions and I would like to address each of them successively.

**1. Pullet-rearing establishments and breeding-bird holdings with access to open-air areas may, as a rule, be granted approval in accordance with Article 8 of Delegated Regulation (EU) 2019/2035 provided that poultry can be effectively prevented from coming into contact with wild birds and rodent pests by implementing appropriate biosecurity measures.**

In accordance with Article 2(4) of Regulation (EU) 2018/848 on organic production<sup>2</sup>, except where otherwise provided, this Regulation applies without prejudice to related Union legislation, in particular, legislation in the fields of safety of the food chain, animal health and welfare, plant health and plant reproductive material.

Hence, the relevant provisions of Regulation (EU) 2016/429 on animal health<sup>3</sup> and Commission Delegated Regulation (EU) 2019/2035 supplementing Regulation (EU) 2016/429<sup>4</sup> apply to any poultry establishment including organic pullet rearing establishments and breeding bird establishment except where otherwise provided.

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<sup>1</sup> Ares(2021)1899250

<sup>2</sup> Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007, OJ L 150, 14.6.2018, p. 1.

<sup>3</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.

<sup>4</sup> Commission Delegated Regulation (EU) 2019/2035 of 28 June 2019 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for establishments keeping

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Commission Delegated Regulation (EU) 2019/2035 supplementing Regulation (EU) 2016/429 lays down the requirements for the **approval of the establishments keeping poultry from which poultry intended for purposes other than slaughter or hatching eggs are to be moved to another Member State**. Those requirements concern isolation and other biosecurity measures, surveillance, facilities and equipment, personnel and supervision by the competent authority; please note that the term “establishment” is defined in Article 4(7) of Regulation (EU) 2016/429 as “*any premises, structure, or, in the case of open-air farming, any environment or place, where animals or germinal products are kept, on a temporary or permanent basis, except for: (a) households where pet animals are kept; (b) veterinary practices or clinics;*” and hence includes the “open air areas”.

Article 8 of Delegated Regulation (EU) 2019/2035 lays down the requirements for granting approval of certain specific establishments keeping poultry:

*“When granting approval of establishments keeping poultry from which poultry intended for purposes other than slaughter or hatching eggs are to be moved to another Member State, the competent authority shall ensure that such establishments comply with the following requirements set out in:*

*(a) point 1 of Part 4 of Annex I, in relation to biosecurity measures;*

*(b) point 2 of Part 4 of Annex I and Part 2 of Annex II, in relation to surveillance;*

*(c) point 3 of Part 4 of Annex I, in relation to facilities and equipment.”*

In particular, point (c) quoted above, describing the requirements in relation to the facilities and equipment of establishments keeping poultry indicates that: “*(c) the poultry must be prevented from coming into contact with rodents and with birds coming from outside.*”

As a consequence, establishments keeping pullets or breeding birds with access to open air areas and from which poultry intended for purposes other than slaughter or hatching eggs are to be moved to another Member State may be granted approval in accordance with Article 8 of Delegated Regulation (EU) 2019/2035 provided that poultry is effectively prevented from coming into contact with rodents and with birds coming from outside the establishment.

**2. Where, due to inadequate biosecurity, it would be impossible to grant approval for holdings with access to open-air areas referred to under number 1 (Regulation (EU) 2019/2035), is this deemed to be a “restriction and obligation related to the protection of human and animal health (...) imposed on the basis of Community legislation” according to Article 14 paragraph (1) letter (b) subparagraph (iii) of Regulation (EC) No. 834/2007 and Annex II Part II point 1.7.3 of Regulation (EU) 2018/848?**

As mentioned under the reply to your question 1, the requirements to grant approval are laid down for those establishments keeping poultry from which poultry intended for purposes other than slaughter or hatching eggs are to be moved to another Member State.

In the case of organic establishments keeping pullets or breeding birds, this may apply to those establishments keeping organic poultry from which poultry intended for purposes

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terrestrial animals and hatcheries, and the traceability of certain kept terrestrial animals and hatching eggs, OJ L 314, 5.12.2019, p. 115.

other than slaughter or hatching eggs are to be moved to another Member State with minimised transport duration in order to comply with point 1.7.6 of Part II of Annex II to Regulation (EU) 2018/848.

Please note also that the provisions of point 1.7.3 of part II of Annex II to Regulation (EU) 2018/848 are related to livestock in general <sup>(5)</sup> and point 1.9.4.4 (d), (e), (f), (h) and (j) of Part II of Annex II to Regulation (EU) 2018/848 provide additional rules for poultry as follows:

*“(d) poultry shall have access to an open air area for at least one third of their life. However, laying hens and finisher poultry shall have access to an open air area for at least one third of their life, except where temporary restrictions have been imposed on the basis of Union legislation;*

*(e) continuous daytime open air access shall be provided from as early an age as practically possible and whenever physiological and physical conditions allow, except where temporary restrictions have been imposed on the basis of Union legislation;*

*(f) by way of **derogation from point 1.6.5**, in the case of breeding birds and pullets aged under 18 weeks, **when** the conditions specified in point 1.7.3 as regards restrictions and obligations related to the protection of human and animal health imposed on the basis of Union legislation **are met** and prevent breeding birds and pullets aged under 18 weeks from having access to open air areas, verandas shall be considered as open air areas and, in such cases, shall have a wire mesh barrier to keep other birds out;*

*(h) open air areas for poultry shall be covered mainly with vegetation;*

*(j) “where poultry are kept indoors due to restrictions or obligations imposed on the basis of Union legislation, they shall have permanent access to sufficient quantities of roughage and suitable material in order to meet their ethological needs;”*

The provisions “**when** the conditions specified in point 1.7.3 as regards restrictions and obligations related to the protection of human and animal health imposed on the basis of Union legislation **are met** and prevent breeding birds and pullets aged under 18 weeks from having access to open air areas” and the provisions of Articles 14 and 15 and points 1 and 2 of Part IV of Annex I to Commission Implementing Regulation (EU) 2020/464 <sup>(6)</sup> related to stocking density and minimum surface for indoor and outdoor areas for poultry show that the possibilities to derogate to the obligation for organic breeding birds and pullets aged under 18 weeks to have access to open air areas should be strictly limited; in fact, they should be strictly limited to those organic establishments keeping pullets or breeding birds from which live poultry intended for purposes other than slaughter or hatching eggs are to be moved to another Member State and for which

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<sup>(5)</sup> point 1.7.3 of Part II of Annex II to Regulation (EU) 2018/848 Livestock shall have permanent access to open air areas that allow the animals to exercise, preferably pasture, whenever weather and seasonal conditions and the state of the ground allow, except where restrictions and obligations related to the protection of human and animal health have been imposed on the basis of Union legislation

<sup>(6)</sup> Commission Implementing Regulation (EU) 2020/464 of 26 March 2020 laying down certain rules for the application of Regulation (EU) 2018/848 of the European Parliament and of the Council as regards the documents needed for the retroactive recognition of periods for the purpose of conversion, the production of organic products and information to be provided by Member States, OJ L 98, 31.3.2020, p. 2.

the provisions of point (c ) of point 3 of Part 4 of Annex I to Commission Delegated Regulation (EU) 2019/2035 requiring that the poultry must be prevented from coming into contact with rodents and with birds coming from outside the establishment are not met.

The Competent authorities responsible for the additional controls related to organic production referred to in Chapter VI of Regulation (EU) 2018/848 should ensure during the annual controls that the use of this derogation is strictly limited to the establishments mentioned above and is not used in order to circumvent the general rule to provide access to open air areas to organic pullets and breeding birds.

**3. As a consequence, in view of the provisions laid down in Regulation (EU) 2018/848 Annex H Part II point 1.9.4.4, are organic farms that intend to move their poultry products to other Member States allowed to provide their breeding birds and pullets with access to verandas instead of open-air areas? If so: is it correct that verandas must fulfil the minimum surface requirements for outdoor areas laid down in Annex I Part IV point 1 or point 2 respectively of Commission Implementing Regulation (EU) 2020/464?**

As mentioned and highlighted above these provisions of point 1.9.4.4 (f) of Part II of Annex II to Regulation (EU) 2018/848 quoted above are a specific derogation under the organic rules which should be strictly limited to the organic establishments keeping pullets or breeding-bird for which the provisions of point c) of point 3 of Part 4 of Annex I to Commission Delegated Regulation (EU) 2019/2035 requiring that the poultry must be prevented from coming into contact with rodents and with birds coming from outside the establishment are not met and from which poultry intended for purposes other than slaughter or hatching eggs are to be moved to another Member State.

In this very particular case, the derogation to the provisions of point 1.6.5 of Part II to Annex II to Regulation (EU) 2018/848 would apply and the equipment of the establishment including verandas shall be considered as open air areas and, in any such cases, shall have a wire mesh barrier that must prevent the poultry kept in the establishment from coming into contact with rodents and other birds coming from outside; in that case the verandas must fulfil the minimum surface requirements for outdoor areas laid down in Annex I Part IV point 1 or point 2 respectively of Commission Implementing Regulation (EU) 2020/464. In addition, the provisions of point 1.9.4.4 (f) of Part II of Annex II to Regulation (EU) 2018/848 related to roughage and suitable material must be complied with.

**4. What rules apply in detail to breeding animals that are kept organically, i.e. to grandparent breeds that are kept for the production of organically reared parent birds?**

Grandparent breeds that are kept for the production of organically reared parent birds are classified as live animals under Chapter I of the Annex I to the Treaty of the Functioning of the European Union <sup>(7)</sup> and hence are covered by the scope laid down in Article 1 and the relevant provisions related to poultry production of Regulation (EU) 2018/848.

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(7) ANNEX I List referred to in Article 38 of the Treaty on the Functioning of the European Union . [Annexes to the Treaty on the Functioning of the European Union \(europa.eu\)](https://eur-lex.europa.eu/eli/reg/2018/848/annex_1)

Part IV of Annex I to Commission Regulation (EU) 2020/464 does not provide for grandparent breeds a detailed table setting the stocking density and minimum surface for indoor and outdoor areas for grandparents of organically reared parent birds.

**5. The above-mentioned animal health requirements for the approval of establishments used for assembly operations and hatcheries have a different wording than those applicable to breeding-bird holdings and rearing establishments. Does this mean that breeding-bird holdings and rearing establishments that provide their livestock with access to open-air areas may be granted approval if they can prove that effective biosecurity measures have been taken to prevent contact with rodents and birds coming from outside the holding?**

According to Article 94 of Regulation (EU) 2016/429, operators of certain establishments of poultry, i.e. assembly operations of poultry, hatcheries and establishments keeping poultry from which poultry intended for purposes other than slaughter or hatching eggs are moved to another Member State, shall not commence their activities until their establishment has been granted an approval by the competent authority.

Specific requirements for granting approval of those establishments are in particular laid down in Parts 2, 3 and 4 of Annex I to Delegated Regulation (EU) 2019/2035.

Regarding contact with rodents and with birds, in the case of assembly operations of poultry and hatcheries those include amongst others the requirement that poultry or hatching eggs “*must not come into contact with rodents and with birds coming from outside*” and in the case of establishments keeping poultry from which poultry intended for purposes other than slaughter or hatching eggs are to be moved to another Member State, the requirement is that “*the poultry must be prevented from coming into contact with rodents and with birds coming from outside*”.

These requirements are laid down in relation to the facilities and equipment of the establishments and must be checked and assessed for appropriateness for each establishment by the competent authority when granting such approval.

The present opinion is provided on the basis of the facts as set out in your e-mail of 10 March 2021 and expresses the view of the Commission services and does not commit the European Commission as an institution. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the European Court of Justice to provide a definitive interpretation of the applicable Union law.

Yours faithfully,

