

Question to the Commission on laying hens in Italy

WRITTEN QUESTION E-0897/04

by Monica Frassoni (Verts/ALE), Caroline Lucas (Verts/ALE), Jean Lambert (Verts/ALE), Patricia McKenna (Verts/ALE), Giorgio Celli (Verts/ALE), Kathalijne Buitenweg (Verts/ALE), Pasqualina Napoletano (PSE), Marco Cappato (NI), Giovanni Procacci (ELDR) and Chris Davies (ELDR) to the Commission

Subject: Incorrect implementation in Italy of directives 1999/74/EC and 2002/4/EC for the protection of laying hens

By means of Legislative Decree No 267 of 27 July 2003 'implementing directives 1999/74/EC and 2002/4/EC for the protection of laying hens and the registration of establishments keeping them', published in Official Gazette No 219 of 20 September 2003, the Italian Government intended to transpose into its own legal system and implement the aforementioned directives.

Although the deadline set in Directive 1999/74/EC ('not later than 1 January 2002') expired some time ago, the transposition includes derogations which are illegal according to Community law and were pointed out by the Italian organisation LAV (Anti-vivisection league) and noted and recorded at meetings of the Italian Senate's committees on health and Community policies.

The illegal derogations include the following:

- further derogations from the ban on building and installing for the first time unenriched cages as of 1 January 2003, as laid down in the Directive, but without time limits if the cages were brought into use 'before 31 December 2002';
- in the 550 cm² of unenriched cage area or 600 cm² of enriched cage area which must be 'useable without restriction' the decree makes provision for the space to include an egg-collection trough up to 8 cm wide;
- authorised stocking density of 12 laying hens per m² of usable area 'for holdings which are using this system on the date the decree enters into force', instead of 3 August 1999 as specified in the Directive;
- the legislative decree makes the obligation to fit enriched cages 'with suitable claw-shortening devices' subject to the availability on the market of devices declared suitable by Community bodies.

Pending the transposition into Italian law, which naturally leaves wide scope for unlawful derogations, battery cages continued to be built during 2003, for example in the municipality of Vivaro (PN).

Can the Commission say:

- how it intends to tackle the situation which has arisen and prevent intentional instances of abuse from benefiting from unlawful derogations;
- whether it does not intend to introduce measures to remedy the effects of the derogations, so as to eliminate the advantages they may give those who exploit them compared with other Community producers;
- whether it does not intend to institute proceedings against the Italian Government for the above-mentioned infringements?

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Answer given by Mr Byrne
on behalf of the Commission
(30 April 2004)

The Commission reacted to the failure of Italy to communicate measures relating to the

transposition of relevant legislation on time by opening infringement proceedings under Article 226 of the EC Treaty.

This procedure was terminated after Italy communicated on 24 September 2003, details of Legislative Decree N° 267 of 27 July 2003.

Before the adoption of the Legislative Decree, the Commission had become aware that, in several important respects, the text proposed by the Italian authorities did not correspond with the requirements of the amended Directive. The Commission intervened, by letter, with the Italian authorities but the text as adopted still incorporated the provisions which do not, in the opinion of the Commission, concord with the requirements of Community legislation.

The Commission, not having received a reply from the Italian authorities to its letter, will now consider the opening of further infringement proceedings.