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COVER NOTE

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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2022) 9111 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 13.12.2022 supplementing Regulation (EU) 2021/2115 of the European Parliament and of the Council with regard to procedures, time limits for submission by Member States of requests for amendments of CAP Strategic Plans, and further cases for which the maximum number of amendments of CAP Strategic Plans does not apply

Delegations will find attached document C(2022) 9111 final.

Encl.: C(2022) 9111 final



Brussels, 13.12.2022
C(2022) 9111 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 13.12.2022

supplementing Regulation (EU) 2021/2115 of the European Parliament and of the Council with regard to procedures, time limits for submission by Member States of requests for amendments of CAP Strategic Plans, and further cases for which the maximum number of amendments of CAP Strategic Plans does not apply

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2021/2115 of the European Parliament and of the Council establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013 empowers the Commission to adopt delegated acts. In accordance with Article 122 of the mentioned Regulation, the purpose of this Delegated Act is to lay down rules concerning procedures, time limits for submission of requests for amendment to CAP Strategic Plans and determines further cases for which the maximum number of amendments to the CAP Strategic Plans, which may be submitted each calendar year does not count. The adoption of this Delegated Act does not entail financial implications.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In the period between 20 September 2022 and 11 October 2022, consultations involving experts from all 27 Member States took place within the Expert Group on the implementation of the CAP Strategic Plans Regulation. Two meetings were organised for the purpose of exchanging expert views on this act. These meetings allowed for a full presentation of the Commission's draft delegated regulation and a thorough exchange of views on all aspects of the draft. The draft was refined taking into account the observations and comments made orally in the meetings and/or sent to the Commission in writing after them. The documents relevant to the written consultation were transmitted simultaneously to the European Parliament and to the Council, as foreseen in the Common Understanding on delegated acts.

The draft Delegated Regulation was published for feedback in the European Commission portal "Have your say" between 28 October and 25 November 2022 to gather the views of citizens and stakeholders. The feedback received shows that there is an interest on the implementation of the CAP Strategic Plans and on how they will impact the farmers of the European Union, while maintaining policy ambitions in the subsequent versions of the CAP Strategic Plans. Only two out of the eleven comments were directly linked to the delegated act in question, pointing to the need for transparency and legal certainty and keeping the number of possible amendments to the strict minimum. The text proposed by the European Commission does not require further revision in the light of the consultation.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This Act contains provisions supplementing certain parts of Regulation (EU) 2021/2115 that are necessary to ensure the smooth functioning of the new legal framework.

The text establishes the rules on procedures setting up how to submit requests for amendments to the CAP Strategic Plans.

It further provides for rules on time limits for submission by Member States of requests for amendments to CAP Strategic Plans, and determines further cases for which the maximum

number of amendments of CAP Strategic Plans which can be submitted per calendar year does not count.

The final provision in respect to the entry into force and application of this Regulation clarifies the moment from which this act is applicable.

COMMISSION DELEGATED REGULATION (EU) .../...

of 13.12.2022

supplementing Regulation (EU) 2021/2115 of the European Parliament and of the Council with regard to procedures, time limits for submission by Member States of requests for amendments of CAP Strategic Plans, and further cases for which the maximum number of amendments of CAP Strategic Plans does not apply

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013¹, and in particular Article 122 thereof,

Whereas:

- (1) Regulation (EU) 2021/2115 lays down the basic rules governing the common agricultural policy (CAP) Strategic Plans, including rules on the submission and approval of amendments of CAP Strategic Plans set out in Article 119 of that Regulation.
- (2) In order to enable Member States to submit requests for amendments of their CAP Strategic Plans, it is necessary to set out the procedures and time limits for submission of the requests for amendment.
- (3) In order for the Commission to correctly assess the request for amendment of the CAP Strategic Plan, the request should contain, in addition to the information laid down in

¹ OJ L 435, 6.12.2021, p. 1.

Article 119(2) of Regulation (EU) 2021/2115, for each change of the CAP Strategic Plan, certain information explaining the reasons for the change and explaining its content and expected effects.

- (4) To ensure that the request for amendment of the CAP Strategic Plan is complete and is correctly transmitted to the Commission, the Member States should submit it through the electronic data exchange system 'SFC2021' referred to in Article 3 of Commission Implementing Regulation (EU) 2021/2289².
- (5) In order to ensure a thorough assessment of the request for amendment submitted for approval by the Commission, and in particular of the amended financial plan, and to avoid the risk of errors due to multiple versions of CAP Strategic Plan undergoing a parallel assessment, the Member State should submit through the electronic data exchange system 'SFC2021' only one request for amendment at a time. The Member State should only submit a new request for amendment once it has either withdrawn the previous request or once the Commission notified the Member State of its decision over the previously submitted request for amendment. This is necessary in particular to ensure legal certainty for the beneficiaries as regards the applicable version of the CAP Strategic Plan and correct linking of payments and with the newly applicable amended financial plan.
- (6) It is necessary to lay down detailed rules on notifications to the Commission of the changes pertaining to interventions under Title III, Chapter IV, of Regulation (EU) 2021/2115, referred to in Article 119(9) of that Regulation, and on the notification to the Commission of the outcome of the assessment referred to in Article 120 of that Regulation.
- (7) It is necessary to lay down time limits for the submission of requests for amendment of CAP Strategic Plans related to types of intervention in certain sectors referred to in Article 42 of Regulation (EU) 2021/2115 and related to types of interventions referred to in Chapter IV of that Regulation in order to ensure the timely processing and entry into force of amendments of CAP Strategic Plans before the end of the period for eligibility of the expenditure.

² Commission Implementing Regulation (EU) 2021/2289 of 21 December 2021 laying down rules for the application of Regulation (EU) 2021/2115 of the European Parliament and of the Council on the presentation of the content of the CAP Strategic Plans and on the electronic system for the secure exchange of information (OJ L 458, 22.12.2021, p. 463).

- (8) It is further necessary to lay down a time period for the submission of requests for amendment of the CAP Strategic Plan relating to the transfer of certain financial allocations, in order to ensure a timely entry into force of the financial allocations for direct payments and EAFRD.
- (9) To ensure efficient processing of requests for amendment of CAP Strategic Plans, Member States should prepare the requests for amendment so as to reduce the number of requests for amendments submitted in each calendar year, for instance by combining multiple changes to the CAP Strategic Plans, in one request for amendment. To ensure legal certainty, protect the rights of farmers and guarantee a smooth and efficient functioning of all interventions, Member States should submit their requests for amendment so as to allow sufficient time for their assessment by the Commission and for their timely entry into effect in accordance with Article 119(8) of Regulation (EU) 2021/2115.
- (10) To ensure flexibility for Member States in case of emergencies due to natural disasters and catastrophic events and other emergency measures and to address other specific situations, and at the same time, to effectively and timely process the requests for amendment of the CAP Strategic Plan without undue administrative burden, it is necessary to define further cases for which the maximum number of requests for amendment laid down in Article 119(7) of Regulation (EU) 2021/2115 does not apply. These cases should include unforeseen changes of the Union legal framework, legal obligations, and where necessary, automatic decommitments, and changes due to exceptional measures against market disturbances, animal diseases and plant pests, as well as modifications of financial instruments which operate under dynamic market environment where regular changes may be necessary for their proper implementation.
- (11) It is necessary to provide a time limit to submit requests for amendment concerning automatic decommitment, in order to ensure compliance with the time limits laid down in Article 34 of Regulation (EU) 2021/2116 of the European Parliament and of the Council³ and Article 24 of Commission Implementing Regulation (EU) 2022/128⁴.

³ Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013 (OJ L 435, 6.12.2021, p. 187).

⁴ Commission Implementing Regulation (EU) 2022/128 of 21 December 2021 laying down rules for the application of Regulation (EU) 2021/2116 of the European Parliament and of the Council on paying agencies and other bodies, financial management, clearance of accounts, checks, securities and transparency (OJ L 20, 31.1.2022, p. 131).

- (12) Having regard to Article 104(1), second subparagraph, and Article 106 of Regulation (EU) 2021/2116 and considering that this Regulation lays down rules on time limits for requests for amendment of CAP Strategic Plans and further cases of requests for amendment of CAP Strategic Plans which do not count in the maximum number of requests for amendment of CAP Strategic Plans, this Regulation should apply as from 1 January 2023, to ensure a level playing field and legal certainty for the Member States, farmers and stakeholders concerned,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation supplements Regulation (EU) 2021/2115 with regard to:

- (a) procedures for submission of requests for amendment of CAP Strategic Plans;
- (b) time limits for submission of requests for amendment of CAP Strategic Plans;
- (c) further cases for which the maximum number of requests for amendment of CAP Strategic Plans referred to in Article 119(7) of Regulation (EU) 2021/2115 does not apply.

Article 2

Rules on procedure for submission of requests for amendment of the CAP Strategic Plan and on notifications of amendments referred to in Article 119(9) of Regulation (EU) 2021/2115

1. In addition to the elements referred to in Article 119(2) of Regulation (EU) 2021/2115, the request for amendment of the CAP Strategic Plan shall indicate one or several types of amendment, from among the types of amendment set out in the Annex to this Regulation and, for each proposed change of the CAP Strategic Plan, it shall contain the following information:
 - (a) the reasons that justify the change;
 - (b) the expected effects of the change;
 - (c) the impact of the change on targets and indicators;
 - (d) the impact of the change on the financing plan.
2. The request for amendment of the CAP Plan may contain one or several proposed changes to the CAP Strategic Plan.

3. The request for amendment of the CAP Strategic Plan shall be submitted through the electronic data exchange system 'SFC2021' referred to in Article 3 of Implementing Regulation (EU) 2021/2289. The information referred to in paragraph 1 of this Article and in Article 119(2) of Regulation (EU) 2021/2115 shall be encoded by the Member State in the respective section of the electronic data exchange system 'SFC2021' for each proposed change separately.
4. Member States may submit only one request for amendment of the CAP Strategic Plan at a time. Member State may submit a new request for amendment of the CAP Strategic Plan only after the previous request was withdrawn by the Member State or after the Commission notified the Member State of its decision concerning the previous request for amendment referred to in Article 119(4) of Regulation (EU) 2021/2115.
5. Where a Member State withdraws a request for amendment of the CAP Strategic Plan, a new request for amendment may only be submitted once the Commission acknowledged the withdrawal of the previous request through the electronic data exchange system 'SFC2021'.
6. Member States shall notify the Commission of the changes pertaining to interventions under Title III, Chapter IV, of Regulation (EU) 2021/2115, referred to in Article 119(9) of that Regulation, through the electronic data exchange system 'SFC2021'. The notification shall contain:
 - (a) the subject of the changes;
 - (b) justification confirming that the change does not affect the targets referred to in Article 109(1), point (a), of Regulation (EU) 2021/2115;
 - (c) the date of the entry into effect of the change in the Member State.
7. Member States shall notify the Commission of the outcome of the assessment referred to in Article 120 of Regulation (EU) 2021/2115 through the electronic data exchange system 'SFC2021'. If the Member State, as a result of the assessment laid down in that Article, submits a request for amendment of its CAP Strategic Plan, it shall provide as a part of the justification of that request for amendment a reference to the notification and an explanation regarding links between the outcome of the assessment and the proposed changes of the CAP Strategic Plan.

Article 3

Time limits for submission of requests for amendment of CAP Strategic Plan

1. The three-month period referred to in Article 119(6) of Regulation (EU) 2021/2115 shall be suspended from the date on which the Commission observations to the request for amendment have been notified to the Member State until the date on which a new version of the CAP Strategic Plan has been submitted through the electronic data exchange system 'SFC2021' in which all Commission observations have been fully addressed by the Member State.

2. Requests for amendment relating to the types of interventions referred to in Article 42 of Regulation (EU) 2021/2115 shall be submitted to the Commission by 30 September 2028 at the latest.
3. Requests for amendment relating to the types of interventions referred to in Chapter IV of Regulation (EU) 2021/2115 shall be submitted to the Commission by 30 September 2029 at the latest.
4. Requests for amendment relating to transfers referred to in Article 17(5), Article 88(7) and Article 103 of Regulation (EU) 2021/2115 shall be submitted to the Commission during the period between 1 January 2025 and 31 May 2025.

Article 4

Further cases of requests for amendment of CAP Strategic Plan

1. Requests for amendment of the CAP Strategic Plan shall not be counted in the maximum number of requests referred to in Article 119(7) of Regulation (EU) 2021/2115 if they relate to the following cases:
 - (a) changes due to emergency measures necessary to address natural disasters, catastrophic events or adverse climatic events formally recognized as such by the competent national public authority, or modifications due to a significant and sudden change in the socioeconomic conditions of the Member State;
 - (b) changes necessary following changes to Union legislation, other than those referred to in Article 120 of Regulation (EU) 2021/2115 or changes necessary following decisions of the Courts of the European Union;
 - (c) changes following exceptional measures adopted pursuant to Articles 219, 220 or 221 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council⁵;

⁵ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

- (d) changes necessary due to introduction of financial instruments referred to in Article 58 of Regulation (EU) 2021/1060 of the European Parliament and of the Council⁶ or their modifications;
 - (e) changes due to an automatic decommitment for the CAP Strategic Plans referred to in Article 34 of Regulation (EU) 2021/2116; or
 - (f) changes pertaining to interventions under Title III, Chapter IV, of Regulation (EU) 2021/2115 referred to in Article 119(9) of that Regulation.
2. The request for amendment of CAP Strategic Plan in the case referred to in paragraph 1, point (e), shall be submitted by 30 June of each calendar year.
3. A request for amendment which combines changes in cases referred to in paragraph 1 with other changes to the CAP Strategic Plan shall count in the maximum number of requests for amendment laid down in Article 119(7) of Regulation (EU) 2021/2115.

Article 5

Entry into force and application

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

It shall apply from 1 January 2023.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

⁶ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

Done at Brussels, 13.12.2022

For the Commission
The President
Ursula VON DER LEYEN