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**NOTE**

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From: General Secretariat of the Council  
To: Delegations

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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) 2021/2115 and (EU) 2021/2116 as regards good agricultural and environmental condition standards, schemes for climate, environment and animal welfare, amendments to CAP Strategic Plans, review of CAP Strategic Plans and exemptions from controls and penalties  
- Presidency suggestion for technical modifications

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With a view to the meeting of the Special Committee on Agriculture on 26 March 2024, the Annex to this note contains the Commission's above-mentioned proposal together with Presidency suggestions for technical modifications. These are shown with ~~strike through~~ for deletions and **bold** for additions and also **highlighted in yellow**.

The changes appear in recital 24 and in Articles 1(2)(a), 1(4), 3(2) and 4.

The provisions that appear between square brackets would be included in the final text if the co-legislators can agree and adopt the legal act by May.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Regulations (EU) 2021/2115 and (EU) 2021/2116 as regards good agricultural and environmental condition standards, schemes for climate, environment and animal welfare, amendments to CAP Strategic Plans, review of CAP Strategic Plans and exemptions from controls and penalties**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the Court of Auditors,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C [...], [...], p. [...].

- (1) Regulation (EU) 2021/2115 of the European Parliament and Council<sup>3</sup> establishes 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). Regulation (EU) 2021/2116 of the European Parliament and Council<sup>4</sup> establishes rules on the financing, management and monitoring of the common agricultural policy.
- (2) Despite the fact that these Regulations give substantial flexibility to Member States and have the potential to reduce farmers' administrative burdens, the first year of concrete application of these Regulations, through CAP Strategic Plans has made clear that certain limited adjustments of the Union legal framework for the common agricultural policy (CAP) are necessary to ensure an effective implementation of the CAP Strategic Plans and to reduce administrative burden linked with the implementation of such Plans and with the control of certain requirements.
- (3) In addition, farmers are facing an exceptional range of difficulties and uncertainties. In particular, the last years have been characterised by an important number of extreme meteorological events, including droughts and floodings in various parts of the Union. These events affect output and revenue, and also strongly impact the execution and calendar of normal agronomic practices. The high energy and input prices and uncertainties resulting from the Russian war of aggression against Ukraine, costs of living, inflation, the 2023 drop in cereal production value and the change in international trade flows have led to further uncertainties and pressure on farmers. The concurrence of these events puts a heavy pressure on farmers to adapt the management of their holdings and the execution of agronomic practices, as managers of natural resources and as economic actors.

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<sup>3</sup> 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 1307/2013 (OJ L 435, 6.12.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/2115/oj>).

<sup>4</sup> 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, ELI: <http://data.europa.eu/eli/reg/2021/2116/oj>).

- (4) As a consequence, there is a need to review and simplify certain provisions of Regulation (EU) 2021/2115 and Regulation (EU) 2021/2116 to ensure that Member States may better adapt their CAP Strategic Plans to farmers' needs and provide farmers with more flexibility to carry out their agricultural activities taking into account the increasing challenges, unpredictability of weather and economic uncertainties.
- (5) Article 13 of Regulation (EU) 2021/2115 requires Member States to ensure that all agricultural areas, including land which is no longer used for production purposes, are maintained in good agricultural and environmental condition. Member States are to set, at national or regional level, minimum standards for farmers and other beneficiaries for each good agricultural and environmental condition (GAEC) standard listed in Annex III to that Regulation, in line with the main objective of those standards as referred to in that Annex. The objective of soil protection and soil quality pursued by GAEC standards 5, 6 and 7 are affected by many factors, such as soil type, choice of crops, climatic and weather conditions or past and present land use and farming systems, such as organic farming requiring a different approach to certain operations. Experience shows that there could be situations where imposing certain requirements, without due consideration for these factors, such as restrictions on tillage or obligations to sow during a specific period, may negatively impact certain soils or certain crops, and even risk going against the objective of soil protection. GAEC standard 9 sets a ban on converting or ploughing permanent grasslands designated as environmentally sensitive in Natura 2000 sites. Experience has however shown there may be exceptional situations where such environmentally sensitive permanent grassland is damaged, for instance by predators or invasive species, and appropriate measures to address such situations, including exceptions to the ban on ploughing of the areas concerned, to restore such permanent grassland, may be necessary to ensure that the GAEC standard 9 requirements contribute to protection of habitats and species.

- (6) The increasing number of extreme meteorological events and instances of damage to permanent grasslands designated as environmentally sensitive, due to factors such as predators or invasive species, increases the incidence of specific problems in the application of the requirements of GAEC standards 5, 6, 7 and 9, which the Member States need to address. There is also a risk that such requirements would be disproportionate in view of their actual contribution to the soil protection objective for GAEC standards 5, 6 and 7 and protection of habitats and species for GAEC standard 9. To avoid such situations, Member States should be allowed to establish specific exemptions from the requirements of GAEC standards 5, 6, 7 and 9 to address specific problems in the application of those GAEC standards, based on objective and non-discriminatory criteria, such as soil types, crops or farming systems or damage to permanent grasslands, among others due to predators or invasive species. Those exemptions should be limited in their area coverage and should not hamper the contribution of those standards to their main objectives, listed in Annex III to Regulation (EU) 2021/2115.
- (7) Weather conditions and the resulting impact on the conditions of agricultural areas, may prevent farmers and other beneficiaries from complying with the requirements of the GAEC standards, such as time limits and periods for operations, in a given year. To avoid that farmers are faced with such requirements and are obliged, for example, to sow crops by a certain date while the weather conditions in the given year do not permit to perform the necessary operations, or only with serious negative impact on the soil, such as soil compaction, Member States should, when implementing the minimum standards set in accordance with Article 13 of Regulation (EU) 2021/2115, be allowed to provide for temporary derogations from those requirements. These temporary derogations should be limited in their scope to farmers and other beneficiaries or areas affected by the weather conditions and should be applied by Member States only for as long as they are strictly necessary.

- (8) Regulation (EU) 2021/2115 provides for a number of elements and tools for Member States to address the specific objective to contribute to halting and reversing biodiversity loss, enhance ecosystem services and preserve habitats and landscapes referred to in Article 6(1), point (f), of that Regulation. One of those elements is the system of conditionality. In particular, GAEC standard 8, listed in Annex III to that Regulation, comprises several requirements, including an obligation to devote a certain share of arable land to non-productive areas and features. The main objective of GAEC standard 8 is the maintenance of non-productive features and areas to improve on-farm biodiversity. Member States may also design interventions supporting this objective, for instance, eco-schemes, referred to in Article 31(4), point (g), of Regulation (EU) 2021/2115. In the context of the challenges and uncertainties deriving from the concurrence of adverse events and economic uncertainties, experience has shown a need to adjust the balance between the different policy tools contributing to protection and enhancement of biodiversity to give more flexibility to farmers to contribute to this objective depending on the specific situation of their holding and to provide an enhanced financial compensation for such contribution.
- (9) More specifically, as the obligation to devote a share of arable land to non-productive areas and features is currently part of GAEC standard 8, first requirement, as listed in Annex III to Regulation (EU) 2021/2115, farmers applying for direct payments and interventions referred to in Articles 70, 71 and 72 of that Regulation, need to respect such requirement without any compensation of the costs incurred or income foregone. This may in certain cases entail an important financial burden for the farmers and beneficiaries concerned, in particular considering that no crop or animal production is possible on the arable land dedicated to non-productive areas or features under GAEC standard 8, first requirement. Considering the burden and consequences for certain farmers and the exceptional range of difficulties and uncertainties they are facing, the need to have non-productive areas and features on arable land would be better addressed through a tool providing for more flexibility, and more importantly, offering an incentive compensating for at least part of the costs incurred and income foregone linked with such non-productive areas and features. Accordingly, Article 31 of Regulation (EU) 2021/2115 should be amended to ensure that Member States provide support for eco-schemes covering practices for the maintenance of non-productive areas, such as land lying fallow, and for the establishment of new landscape features, on arable land.

- (10) At the same time, the conditionality system established by Regulation (EU) 2021/2115 should be adjusted by deleting the first requirement of GAEC standard 8, as listed in Annex III to that Regulation. The obligation to protect landscape features as well as the ban on cutting hedges and trees during the bird breeding and rearing season, which are currently part of the requirements under GAEC standard 8, should be maintained as a part of the conditionality system to ensure that existing landscape features on agricultural areas are protected.
- (11) The Member States should be given additional flexibility to amend their CAP Strategic Plans whilst ensuring the stability of the strategy, manageability of the CAP Strategic Plans, as well as the administrative efficiency of the amendment process. Experience has shown that addressing the specific requirements of both the EAGF and the EAFRD in one request for amendment may be challenging. At the same time, the number of the amendments per calendar year should be limited so as to ensure that the farmers and other beneficiaries have sufficient time to take the amendments into account, as well as to limit the administrative burden to the Member States and enable the Commission to assess the compatibility of the amendments with the Union legal framework laid down in Regulations (EU) 2021/2115 and 2021/2116, within the time limits set out in that legal framework. For these reasons, the maximum number of requests for amendments of CAP Strategic Plans should be increased to two requests for amendment per calendar year.
- (12) According to Article 120 of Regulation (EU) 2021/2115, Member States are obliged to assess whether their CAP Strategic Plans need to be amended in case of modifications of the Union legislative acts listed in Annex XIII to that Regulation and to notify the Commission of their assessment within a certain deadline. Since this obligation has proved to be burdensome to Member States and the efforts that Member States would need to invest in the assessment for the remainder of the current CAP Strategic Plans' programming period should be limited, the obligation should not apply to amendments of legislative acts listed in Annex XIII, that enter into force after 31 December 2025.

- (13) Experience shows that the concurrence of numerous adverse events brings about challenges for farmers, requiring increased flexibility and a simplification of the implementation of the CAP Strategic Plans, with regard to certain GAEC standards, listed in Annex III to Regulation (EU) 2021/2115.
- (14) GAEC standard 6, has as the main objective to ensure protection of soil in periods that are most sensitive by means of a minimum soil cover to avoid bare soils in such sensitive periods. More importantly than for other GAEC standards, a broad range of factors affect the design and implementation of the requirements under this GAEC standard. In particular, the minimum soil cover may be ensured by different means, which depend not only on the climatic and soil conditions, but also on factors such as the choice of crops and duration of the growing season in a given year. Besides, there may be different sensitive periods depending in particular on specific soil and climate conditions. Moreover, when making production choices and in particular sowing decisions, farmers and other beneficiaries need to be able to reconcile the respect of the requirements of GAEC standard 6 with unpredictable weather conditions. In view of these factors, Member States should be able to manage more flexibly such requirements of GAEC standard 6, compared to other GAEC standards, in a way which ensures the contribution of such requirements to the main objective of that standard, while taking into account a range of factors, such as soil and climatic conditions.
- (15) Member States should therefore be allowed to determine the main elements of GAEC standard 6 and summarise them in the CAP Strategic Plans, in accordance with Article 109(2), point (a), of Regulation (EU) 2021/2115. The Commission should ensure, in accordance with Articles 13(1) and 109(2) and Articles 118 and 119 of that Regulation, that the GAEC standard 6 as determined by the Member States is, overall, in line with the main objective of that GAEC standard.



- (16) The main objective of GAEC standard 7 listed in Annex III to Regulation (EU) 2021/2115 is to preserve the soil potential. Considering that crop diversification may also contribute to preserving the soil potential while being simpler for certain farmers to implement in the context of the multiple pressures and challenges they currently face, Member States should have the possibility to allow farmers to comply with GAEC standard 7 also through crop diversification. In view of this, minimum requirements concerning crop diversification should be set.
- (17) It is important that the CAP continues to contribute to the environmental objectives set out in Article 6(1), point (d) to (g) of Regulation (EU) 2021/2115 through the conditionality requirements. It is also important that the stability of these requirements as the common baseline for Member States and farmers is ensured. Therefore, the conditionality requirements should continue to apply to all farmers. However, the administrative burden linked to the controls of the conditionality requirements as provided for in Regulation (EU) 2021/2116 can be disproportionately high on small farmers and national administration. Therefore, in addition to the flexibilities as regards GAEC standards 6, 7 and 8, the burden for small farmers and national administrations linked to controls provided by Regulation (EU) 2021/2116 should be eased. Farmers with a maximum size of holding not exceeding 10 hectares of agricultural area should in consequence not be controlled under the conditionality system as regards the respect of statutory management requirements under Union law and the good agricultural and environmental conditions. As such small farmers represent 65% of CAP beneficiaries but account only for around 10% of the total agricultural area, this would simplify the work for many farmers and national administrations while not hampering significantly the role of the conditionality requirements in contributing to their objectives due to the relatively small agricultural surface managed by small farmers.
- (18) Since the agricultural surface managed by small farmers is limited and penalties are in general low for small farmers, the application of penalties could lead to disproportionate burden for Member States' administration. Small farmers, which are exempted from the controls, should therefore also be exempted from the application of administrative penalties for non-compliance with the conditionality requirements.

- (19) In order to avoid excessive administrative costs and burdens related to conditionality and cross compliance checks, beneficiaries who receive area-based payments under both a CAP Strategic Plan pursuant to Regulation (EU) 2021/2115 and a rural development programme implemented under Regulation (EU) No 1305/2013 of the European Parliament and Council<sup>5</sup> until 31 December 2025 and are therefore submitted to checks of conditionality pursuant to Regulation (EU) 2021/2116, should be exempted from checks of cross-compliance and the application of penalties pursuant to Regulation (EU) No 1306/2013.
- (20) Regulations (EU) 2021/2115 and 2021/2116 should therefore be amended accordingly.
- (21) [In order to ensure a smooth implementation of the measures laid down in Article 1(6), points (a), (b) and (c) of this Regulation, transitional provisions need to be laid down as regards amendments of CAP Strategic Plans submitted by Member States for Commission approval pursuant to Article 119 of Regulation (EU) 2021/2115 in 2024 and as regards the effects of those amendments in 2024 prior to the approval of those amendments by the Commission.]
- (22) In order to ensure a smooth implementation of the measures envisaged and as a matter of urgency in view of the exceptional range of difficulties and uncertainties faced by farmers, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.
- (23) [In order to avoid disproportionate administrative burden for small farmers and for national authorities, the exemption from penalties related to non-compliance of the conditionality requirements or of cross-compliance requirements should apply retroactively as regards claim year 2024.]
- (24) [Considering that the claim year 2024 started on 1 January 2024, Article 1(6), points (a), (b) and (c), of this Regulation should apply for claim year 2024 to give Member States the possibility to apply the amendments referred therein **as from** ~~for~~ claim year 2024.]

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<sup>5</sup> Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487, ELI: <http://data.europa.eu/eli/reg/2013/1305/oj>).

HAVE ADOPTED THIS REGULATION:

*Article 1*

***Amendments to Regulation (EU) 2021/2115***

Regulation (EU) 2021/2115 is amended as follows:

(1) Article 4 is amended as follows:

(a) in paragraph 3, point (a) is replaced by the following:

‘(a) ‘arable land’ shall be land cultivated for crop production or areas available for crop production but lying fallow; in addition, it shall, for the duration of the commitment, be land cultivated for crop production or areas available for crop production but lying fallow that have been set aside in accordance with Article 31 or Article 70 of this Regulation, or with Articles 22, 23 or 24 of Council Regulation (EC) No 1257/1999<sup>(\*)</sup>, or with Article 39 of Council Regulation (EC) No 1698/2005<sup>(\*\*)</sup>, or with Article 28 of Regulation (EU) No 1305/2013 of the European Parliament and of the Council<sup>(\*\*\*)</sup>.

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(\*) Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations (OJ L 160, 26.6.1999, p. 80, ELI: <http://data.europa.eu/eli/reg/1999/1257/oj>).

(\*\*) Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 277, 21.10.2005, p. 1, ELI: <http://data.europa.eu/eli/reg/2005/1698/oj>).

(\*\*\*) Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487, ELI: <http://data.europa.eu/eli/reg/2013/1305/oj>).’;

(b) in paragraph 4, first subparagraph, point (b) is replaced by the following:

‘(b) any area of the holding which is:

- (i) covered by landscape features subject to the retention obligation under GAEC standard 8 listed in Annex III; or
- (ii) for the duration of the relevant commitment by the farmer, established or maintained as a result of an eco-scheme referred to in Article 31.

If Member States so decide, ‘eligible hectare’ may contain other landscape features, provided they are not predominant and do not significantly hamper the performance of the agricultural activity due to the area they occupy on the agricultural parcel. In implementing that principle, Member States may set a maximum share of the agricultural parcel covered by those other landscape features.

As regards permanent grassland with scattered ineligible features, Member States may decide to apply fixed reduction coefficients to determine the area considered eligible.’;

(2) Article 13 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Member States shall ensure that all agricultural areas, including land which is no longer used for production purposes, are maintained in good agricultural and environmental condition. Member States shall set, at national or regional level, minimum standards for farmers and other beneficiaries for each GAEC standard listed in Annex III in line with the main objective of those standards as referred to in that Annex. In setting their standards, Member States shall take into account, where relevant, the specific characteristics of the areas concerned including soil and climatic condition, existing farming systems, farming practices, farm size and farm structures, land use, and the specificities of outermost regions.

In setting the GAEC standards 5, 6, 7 or 9 listed in Annex III, Member States may establish specific exemptions from the requirements of those standards. The specific exemptions from GAEC standards 5, 6, 7 or 9 shall be based on objective and non-discriminatory criteria, such as crops, soil types and farming systems or damage to permanent grasslands, among others due to **predators wild animals** or invasive species, and shall be limited in terms of their area coverage. The specific exemptions shall be established only where and to the extent that they are necessary to address specific problems in the application of those standards and shall not significantly hamper the contribution of each of those standards to their main objectives, listed in Annex III.?’;

(b) the following paragraph 2a is inserted:

‘2a. When implementing the minimum standards set in accordance with paragraphs 1 and 2 Member States may allow temporary derogations from requirements such as time limits and periods set in those standards in the case of weather conditions preventing farmers and other beneficiaries from complying with those requirements in a given year. These temporary derogations shall be limited in their scope to farmers and other beneficiaries or areas affected by the weather conditions and be applied only for as long as they are strictly necessary.’;

(3) in Article 31, the following paragraph 1a is inserted:

‘1a. As a part of the eco-schemes referred to in paragraph 1, Member States shall establish and provide support for schemes covering practices for the maintenance of non-productive areas, such as land lying fallow, and for the establishment of new landscape features, on arable land. These schemes shall be voluntary for active farmers and groups of active farmers.’;

(4) in Article 119, **the first subparagraph of** paragraph 7 is replaced by the following:

‘7. A request for amendment of the CAP Strategic Plan may be submitted twice per calendar year, subject to possible exceptions provided for in this Regulation or to be determined by the Commission in accordance with Article 122. In addition, three further requests for amendment of the CAP Strategic Plan may be submitted during the duration of the CAP Strategic Plan period. This paragraph shall not apply to requests for amendments to submit the missing elements in accordance with Article 118(5) .?’;

(5) in Article 120 the following paragraph is added:

‘Paragraph 1 shall not apply to amendments of legislative acts listed in Annex XIII, that enter into force after 31 December 2025.’

(6) Annex III is amended as follows:

(a) in the table, the entry for ‘GAEC 6’ is replaced by the following:

‘

|        |  |  |
|--------|--|--|
| GAEC 6 | Minimum soil cover to avoid bare soil in periods that are most sensitive, as determined by Member States <sup>(****)</sup> . | Protection of soils in periods that are most sensitive |
|--------|--|--|

(\*\*\*\*) Member States may in particular take into account the short vegetation period resulting from the length and severity of the winter period in regions concerned.’

(b) in the table, the entry for GAEC 7 is replaced by the following:

|        |  |                               |
|--------|--|-------------------------------|
| GAEC 7 | Crop rotation in arable land, except for crops growing under water. Member States may in addition decide to allow farmers and other beneficiaries to fulfil this standard with crop diversification <sup>(*****)</sup> . | Preserving the soil potential |
|--------|--|-------------------------------|

(\*\*\*\*\*) Rotation shall consist in a change of crop at land parcel level (except in case of multiannual crops, grasses and other herbaceous forage, and land lying fallow), including the appropriately managed secondary crops.

On the basis of diversity of farming methods and agro-climatic conditions, Member States may authorise in the regions concerned other practices of enhanced crop rotation with leguminous crops or crop diversification which aim at improving and preserving the soil potential in line with the objectives of this GAEC standard.

When defining crop diversification requirements, Member States shall respect the following minimum requirements:

- where the size of arable land of a holding is between 10 and 30 hectares, crop diversification shall consist in cultivation of arable land of a holding with at least two different crops. The main crop shall not cover more than 75 % of that arable land.

- where the size of arable land of a holding is more than 30 hectares, crop diversification shall consist in cultivation of arable land of a holding with at least three different crops on that arable land. The main crop shall not cover more than 75 % of that arable land and the two main crops together shall not cover more than 95 % of that arable land.

Member States may exempt from the obligations under this standard holdings:

- (a) where more than 75 % of the arable land is used for the production of grasses or other herbaceous forage, is land lying fallow, is used for cultivation of leguminous crops, or is subject to a combination of those uses;
- (b) where more than 75 % of the eligible agricultural area is permanent grassland, is used for the production of grasses or other herbaceous forage or for the cultivation of crops under water either for a significant part of the year or for a significant part of the crop cycle, or is subject to a combination of those uses; or
- (c) with a size of arable land up to 10 hectares.

Member States may introduce a maximum limit of area covered with a single crop to prevent large monocultures.

Farmers certified in accordance with Regulation (EU) 2018/848(\*\*\*\*\*) shall be deemed to comply with this GAEC standard.

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(\*\*\*\*\*) 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, ELI: <http://data.europa.eu/eli/reg/2018/848/oj>).';



(c) in the table, the entry for ‘GAEC 8’ is replaced by the following:

|        |  |  |
|--------|--|--|
| GAEC 8 | <ul style="list-style-type: none"><li>— Retention of landscape features</li><li>— Ban on cutting hedges and trees during the bird breeding and rearing season</li><li>— As an option, measures for avoiding invasive plant species</li></ul> | Maintenance of non-productive features to improve on-farm biodiversity |
|--------|--|--|

## Article 2

### *Amendments to Regulation (EU) 2021/2116*

Regulation (EU) 2021/2116 is amended as follows:

(1) in Article 83, paragraph 2 is replaced by the following:

‘2. By way of derogation from paragraph 1, farmers with a maximum size of holdings not exceeding 10 hectares of agricultural area declared in accordance with Article 69(1) shall be exempted from controls under the system set up in accordance with paragraph 1 of this Article.’

(2) in Article 84, the following paragraph is added:

‘4. By way of derogation from paragraphs 1 to 3 and from Article 85, farmers with a maximum size of holdings not exceeding 10 hectares of agricultural area declared in accordance with Article 69(1) shall be exempted from the penalties referred to in paragraphs 1 to 3 and in Article 85.’

(3) in Article 104, (1), second subparagraph, point (a), point (iv) is replaced by the following:

‘(iv) as regards the EAFRD, in relation to expenditure incurred by the beneficiaries and payments made by the paying agency in the framework of the implementation of rural development programmes pursuant to Regulation (EU) No 1305/2013, with the exception of Article 96 and 97 of Regulation (EU) No 1306/2013 as regards beneficiaries who are submitted to the system of control referred to in Article 83 of this Regulation;’

*[Article 3*

***Transitional provisions***

- (1) By way of derogation from Article 119(8), third subparagraph, of Regulation (EU) 2021/2115, the date of effect of amendments of CAP Strategic Plans related to the EAGF submitted by Member States to Commission approval pursuant to Article 119(2) of that Regulation in respect to claim year 2024 in relation to elements laid down in Article 1(6), point (a), (b) and (c) of this Regulation shall not be subject to Commission approval.
- (2) By way of derogation from Article 119(11) of Regulation (EU) 2021/2115, Member States may decide for claim year 2024 that amendments to CAP Strategic Plans related to elements laid down in Article 1(6), point (a), (b) **or and** (c) of this Regulation, may have legal effects before their approval by the Commission. For the element laid down in Article 1(6), point (c) of this Regulation, the Member States may take that decision only if they apply for the claim year 2024 a scheme covering practices for the maintenance of non-productive areas, such as land lying fallow, or for the establishment of new landscape features, on arable land, referred to in Article 31 of Regulation (EU) 2021/2115.

In taking this decision, Member States shall ensure that the general principles of Union law, in particular the principle of legal certainty, the principle of non-discrimination and the protection of legitimate expectations of farmers and other beneficiaries are respected and the need of farmers and other beneficiaries to have sufficient time to comply with the amendments is taken into account.]

*Article 4*

***Entry into force and application***

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

[Article 1(6), points (a), (b) and (c) and Article 2 points (2) and (3) shall apply **for as from** claim year 2024.]

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

Done at Brussels,

*For the European Parliament*

*For the Council*

*The President*

*The President*

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