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#### 'I/A' ITEM NOTE

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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Subject: Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) No 1308/2013, (EU) 2021/2115 and (EU) 2021/2116 as regards the strengthening of the position of farmers in the food supply chain **(first reading)**

- Adoption of the legislative act
- Statements

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**Germany has requested that the following statement be entered in the Council minutes**

The German Federal Government abstains on the proposal for a Regulation amending Regulations (EU) No 1308/2013, (EU) 2021/2115 and (EU) 2021/2116 as regards the strengthening of the position of farmers in the food supply chain, as amended by the trilogue compromise of 5 March 2026.

We share the proposal's goal of strengthening the position of farmers. Overall, however, we are not convinced that the instruments provided for therein are suitable to effectively achieve that goal. We are particularly critical of the additional bureaucratic burden associated with the proposal and the high degree of effort and cost associated with the changeover. One of our key objectives is to reduce needless bureaucracy and avoid unnecessary costs for the economy. In comparison to other European countries, the German agri-food industry is particularly affected by the introduction of protected meat designations, for which we consider regulation to be unnecessary.

In light of the above, we cannot accept the proposal. At the same time, we acknowledge that the trilogues succeeded in bringing about significant adjustments. Member States will be given the possibility to derogate from the obligation to conclude written contracts with certain minimum content. While the derogation for the dairy sector is limited, it covers essential elements.

The Presidency also made every effort to defend the Council's position on protected meat designations: terms that are widely used in the German market far beyond the meat sector (such as burger, sausage and schnitzel) can still be used freely, designations in the fish sector remain unaffected and generous transitional and continued marketing periods have been achieved.

**Latvia has requested that the following statement be entered in the Council minutes**

Latvia votes against the Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1308/2013, (EU) 2021/2115 and (EU) 2021/2116 as regards the strengthening of the position of farmers in the food supply chain" (hereafter – the proposal).

During the process of discussing the proposal, Latvia has consistently maintained the view that any proposals aimed at strengthening the position of producers in the supply chain must deliver genuine and tangible benefits to producers.

With regard to contractual relations and respecting the views of the Latvian agricultural sector, Latvia is of the opinion that the decision to require mandatory written contracts should remain at the discretion of Member States rather than being imposed as a compulsory obligation.

Latvia brings forward the following arguments for voting against the proposal:

- 1) We believe the provisions on contracts and contractual relations within the CMO Regulation should remain unchanged, and that the establishment of mandatory written contracts and mediation mechanisms should be left to the discretion of Member States. In particular, Latvia is against the provisions on contracts contained in Article 148, as it does not allow Member States to decide that contracts in the dairy sector should not be mandatory;
- 2) Latvia also cannot support the departure from the Council mandate regarding mediation mechanism and the reduction of the minimum supply value threshold from EUR 20,000 to EUR 10,000.

**The Netherlands has requested that the following statement be entered in the Council minutes**

The Netherlands welcomes the agreement reached on the proposal for the Regulation amending Regulations (EU) No 1308/2013, (EU) 2021/2115 and (EU) 2021/2116 as regards the strengthening of the position of farmers in the food supply chain given. The new rules concerning contractual relations and other provisions contribute to a stronger bargaining position for farmers, an objective that has been actively supported by the Netherlands throughout the decision making process. In this process, it was essential to ensure a level playing field and broad application across the EU to fulfill the "One Europe, One Market" objective.

However, on both procedural and substantive grounds, the Netherlands cannot support the last-minute addition of restrictions on the use of meat-related terms and the limitations imposed on the possibilities for cultivated meat. These restrictions do not contribute to consumer clarity and create unnecessary regulatory burden for the business community. Furthermore, they undermine the development of new and hybrid products and discourage innovation and private investment - elements vital to strengthening the future earning capacity of the European agricultural and food system. Consequently, this runs counter to the recommendations of the Draghi Report to enhance the EU's future global competitiveness.

Therefore, while the proposed Regulation contributes to the farmer's position in the chain, on balance the Netherlands is unable to support the compromise agreement reached between the Council, the European Commission and the European Commission on the proposal for the regulation amending Regulations (EU) No 1308/2013, (EU) 2021/2115 and (EU) 2021/2116 as regards the strengthening of the position of farmers in the food supply chain, in light of the reservations about the aforementioned restrictions.

**Austria has requested that the following statement be entered in the Council minutes**

Austria has always given constructive support to practicable provisions to strengthen the position of farmers in the food supply chain.

In discussions, the following were and are particularly important for Austria:

- derogations from the mandatory use of written delivery contracts for agricultural products, in particular in the dairy sector;
- adequate differentiation in competition law between recognised producer organisations and non-recognised producer organisations or other entities.

**Derogations from the mandatory use of written delivery contracts for agricultural products, in particular in the dairy sector**

In the context of Regulation (EU) No **1308/2013 (Articles 148 and 168)** establishing a common market organisation (CMO), **Member States are currently able to decide**, in the interests of **subsidiarity**, whether **written contracts** are required for deliveries to first purchasers, excluding cooperatives.

**At present, no written contracts are required in Austria**; the national *Erzeuger-Rahmenbedingungen-Verordnung* (Producer Framework Conditions Regulation), based on the *Marktordnungsgesetz* (Law on Market Organisation – MOG), provides that a supplier of raw milk or agricultural products may demand a contract. Written milk delivery agreements are already common practice in Austria, but do not have to comply exactly with the provisions of the CMO.

The present proposal for an **amendment to the CMO** gives rise to **fundamental changes to contractual relations**:

Written **contracts** are now fundamentally **mandatory** for **all deliveries** of agricultural products; in the dairy sector, besides raw milk, this now also includes deliveries of all dairy products.

**Additional conditions** (including transparent and democratic methods to determine prices in advance, taking into account the impact on the remuneration of farmers and payment periods and procedures) are attached to the **exceptions for cooperatives**, and those exceptions are bound up with **legal uncertainty**.

A **new revision clause** for contracts with a duration of more than 12 months (**six months in the dairy sector**) has been introduced which unilaterally allows the supplier to terminate the delivery contract at any time. To date, the aim of the CMO has been to require delivery contracts to have a duration of at least six months; there is now a **danger** that **shorter durations are more likely to be offered**. This applies in particular to the dairy sector.

While **derogations** for specific **products or elements of a contract** remain possible, they must be determined at national level, which entails bureaucratic burden.

There is a **danger** that only **short-term delivery contracts** will be offered or that it will be even more difficult for smaller suppliers in remote areas to find a buyer. This will make no difference to market conditions: at present, the increase in milk volumes in the EU is putting pressure on producer prices.

### **Extension of competition law derogations to non-recognised producer organisations and other entities**

**Up until now**, it was – by way of derogation from Article 101(1) TFEU – permissible for any producer organisation (PO) recognised under Article 152(1) of Regulation (EU) No 1308/2013 to plan production, optimise the production costs, place on the market and negotiate contracts for the supply of agricultural products, on behalf of its members for all or part of their total production.

**In future**, those derogations from competition law will be **extended to non-recognised POs, cooperatives and organisations in any other equivalent legal form recognised by national law** that have applied for recognition and have not yet been recognised as a PO by a Member State, provided that they meet the requirements set out in Article 152(1) and Article 154 of the CMO Regulation.

**Any such PO** may avail itself of that derogation within the period provided for in Article 154(4), point (a), of the CMO Regulation or, if the Member State has not taken any decision on the application for recognition by the end of that period, **within five years of the date of submission of the application for recognition**, unless the relevant Member State has decided to refuse the recognition.

**The following consequences are to be expected *ex ante*:**

- The addition of new beneficiaries will counteract ongoing simplification efforts – we can expect the anticipated increase in the number of checks to lead to increased administrative burden.
- Furthermore, the fact that procedures may be ongoing for years creates legal uncertainty, which poses a significant risk of serious cartel penalties in the case of *ex post* findings of non-compliance with recognition requirements.
- Attention should also be drawn to the emergence of increasing differences between Member States in the timing of recognition procedures within the prescribed five-year period.
- Furthermore, a completely new recognition procedure has been introduced (currently: *ex ante* verification; in future: *ex post* verification).
- In addition to the issues mentioned, the new provision represents **a weakening of the current system for recognised POs: the benefits for POs which have already been recognised will diminish.**

Austria believes that maintaining the *status quo* in the recognition system would clearly be **preferable**, not least to safeguard the **benefits for POs which have already been recognised**. Finally, to date, it has already been possible for all non-recognised POs, cooperatives and other entities to obtain recognition as POs and thus benefit from the exemptions from competition law.

### **Conclusion**

Austria continues to see scope for greater consideration of these points and **therefore calls on the European Commission to evaluate the present amendments within a reasonable time frame.**

**However, Austria will not oppose the compromise reached and will vote in favour.**

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