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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) 2020/2220 as regards specific measures under the European Agricultural Fund for Rural Development (EAFRD) to provide additional assistance to Member States affected by natural disasters

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The recent natural disasters in Central and Eastern as well as in Southern Europe have had a devastating effect on the populations living and working in these regions. A lot of agricultural and forestry production potential has been destroyed, causing huge losses of income. In order to quickly address vulnerabilities of the European food system and rural communities resulting from these disasters, Europe needs to be able to rapidly deploy effective support through the Rural Development Programmes in addition to resources available from other European Funds.

The Common Agricultural Policy (CAP) already provides support for investments in restoration of agricultural and forestry potential and income support. However, these support measures may be underfunded in face of the needs of farmers and foresters in countries affected by natural disasters.

In order to provide additional assistance and further flexibility to Member States affected by natural disasters, the Commission proposes a new measure and more flexibility in relation to the non-regression threshold for a budgetary reinforcement of investments in restoration of agricultural potential as well as for funding the new measure.

The new measure, funded by the European Agricultural Fund for Rural Development (EAFRD) and implemented under rural development programmes, allows Member States to provide targeted liquidity support to farmers, forest holders, SMEs active in processing, marketing or development of agricultural or forestry products affected by natural disasters occurring as of 1 January 2024.

By directly and swiftly addressing the cash-flow challenges of affected businesses, the support through the new measure will contribute to food security and address upfront the potential market disturbance due to the impact of the natural disasters. In order to achieve these goals while providing for a reasonably simple administration allowing swift deployment, the support will take the form of a one-off lump sum for farmers, forest holders and SMEs.

In addition, investments in restoration of agricultural potential should be reinforced by providing more budgetary flexibilities as regards the non-regression threshold in using EAFRD funds.

In this context, while providing for budgetary flexibility as regards the non-regression threshold, it is important to continue and reinforce the planned investments and actions in disaster prevention and preparedness, as well as climate adaptation to mitigate the impact of the increasingly frequent climate-induced disasters. Restoration efforts and liquidity payments should be balanced as much as possible with the need to pursue currently foreseen investments and actions in disaster prevention and preparedness.

Further, with a view to ensuring the most efficient use of resources available under existing rural development programmes, Member States will be required to substantiate the targeting of the new support measure to those most affected, based on objective and non-discriminatory criteria. Moreover, a maximum share of the Union contribution to this new measure should be fixed.

As regards the process, Member States would need to include the new measure or the planned reallocation of funding in the rural development programmes via a programme modification.

This submission of the programme modification can take place after the entry into force of this proposal.

- **Consistency with existing policy provisions in the policy area**

The proposal is consistent with the overall legal framework established for the Common Agricultural Policy and the European Structural and Investment Funds (ESIF) and is limited to a targeted amendment of Regulation (EU) 2020/2220. The proposal complements all other measures aimed at addressing the current situation taken by the Union, in particular those measures aimed at providing liquidity.

- **Consistency with other Union policies**

The proposal is limited to targeted amendments of Regulation (EU) 2020/2220 and maintains consistency with other Union policies.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The proposal is based on 43(2) of the Treaty on the Functioning of the European Union.

- **Subsidiarity (for non-exclusive competence)**

The Treaty on the Functioning of the European Union provides that the competence for agriculture is shared between the Union and the Member States, while establishing a common agricultural policy with common objectives and a common implementation. The proposal aims at ensuring the common objectives and common implementation of a new rural development measure.

- **Proportionality**

The proposal comprises limited and targeted amendments that do not go beyond what is necessary to achieve the objective of providing exceptional and temporary relief to farmers, forest holders and SMEs active in processing, marketing or development of agricultural products or forestry products and for restoration efforts, who are particularly affected by natural disasters.

- **Choice of the instrument**

A Regulation is the appropriate instrument to introduce the additional measure needed to address these unprecedented circumstances.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

N/A

- **Stakeholder consultations**

Due to the technical, limited and urgent nature of the proposed modifications, the legal proposal is not suitable for a wide public consultation. This explanatory memorandum will however be transmitted to the other institutions together with the accompanying act and will be available to the public through EUR-Lex.

- **Collection and use of expertise**

N/A

- **Impact assessment**

An impact assessment was carried out to prepare the proposal for Regulation (EU) No 1305/2013. These proposed limited amendments do not require a separate impact assessment.

- **Regulatory fitness and simplification**

N/A

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

The proposal concerns the EAFRD rural development programmes for the 2014-2022 period and does not modify existing budgetary commitments. It remains within the limits of the overall allocation for the period 2014-2022 and is therefore budgetary neutral.

The total annual breakdown of commitment appropriations under EAFRD remains unchanged. Payments to beneficiaries will be made before 31 December 2025, and hence will be financed under the 2025, 2026 and 2027 budget. The payment appropriations needed to finance this measure are to be accommodated within the appropriations for the EAFRD included in the Commission's forthcoming Draft Budget 2025 and will be offset by a corresponding decrease in payment needs in subsequent years.

The proposed modification does not imply any changes in the Multiannual Financial Framework annual ceilings for commitments and payments as per Annex I to Regulation (EU) 2020/2093.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The implementation of the measures will be monitored and reported upon in the framework of the general reporting mechanisms established in Regulations (EU) No 1303/2013 and (EU) No 1305/2013.

- **Explanatory documents (for directives)**

N/A

- **Detailed explanation of the specific provisions of the proposal**

In order to provide additional assistance and further flexibility as regards the non-regression threshold to Member States affected by natural disasters it is proposed to amend Regulation (EU) 2020/2220 to:

- Introduce a new measure to allow Member States to provide liquidity support to farmers, forest holders and SMEs active in processing of agricultural and forestry products affected by natural disasters occurring as of 1 January 2024. The support is paid in form of a lump sum. The new measure can be co-financed up to 100% with

EAFRD and the maximum share of Union contribution is 10% of the total EAFRD contribution to the rural development programme for the years 2021-2022.

- Provide limited flexibility regarding the non-regression clause when reallocating funds to the new measure or to measures for restoring production potential.
- Give Member States the possibility to simplify procedures by considering the whole area to be gravely affected by a natural disaster when applying for “force majeure”.
- Allow Member States to select for support operations that have been physically completed or fully implemented before the application for funding when linked to restoration or liquidity payments.

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amending Regulation (EU) 2020/2220 as regards specific measures under the European Agricultural Fund for Rural Development (EAFRD) to provide additional assistance to Member States affected by natural disasters

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 European Economic and Social Committee¹,
Having regard to the opinion of the Committee of the Regions²,
Acting in accordance with the ordinary legislative procedure,
Whereas:

- (1) The recent natural disasters in Central and Eastern as well as in Southern Europe have had a devastating effect on the rural populations living and working in these regions. A considerable amount of agricultural and forestry production potential has been destroyed, and as a consequence farmers, forest holders and rural businesses in the affected regions are faced with important losses of income. In order to quickly address vulnerabilities of the European food system and rural communities resulting from these disasters, it is appropriate to rapidly provide exceptional effective support through the European Agricultural Fund for Rural Development (EAFRD) implemented under rural development programmes and provide for more flexibility for the existing measures.
- (2) In order to respond to the consequences of natural disasters occurring as from 1 January 2024, a new exceptional and temporary measure should be provided for addressing the liquidity problems that put at risk the continuity of farming and forestry activities and the continuity of small and medium businesses active in processing, marketing or development of agricultural and forestry products. Moreover, support for restoration of agricultural production potential available under Regulation (EU) No 1305/2013 of the European Parliament and of the Council³ should be reinforced by providing more budgetary flexibility as regards the non-regression threshold provided

¹ OJ C , , p. .

² OJ C , , p. .

³ 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>).

for Article 1(2) of Regulation (EU) 2020/2220 of the European Parliament and of the Council⁴.

- (3) Since the financing of the new measure will be provided through the EAFRD, the legal framework laid down for the programming period 2014-2020, in particular the specific provisions of Regulation (EU) No 1305/2013 and Regulation (EU) No 1306/2013 of the European Parliament and of the Council⁵, as well as implementing provisions to those Regulations, are to apply to this new measure.
- (4) The EAFRD programming period was extended by Regulation (EU) 2020/2220 until 31 December 2022. The implementation of the extended programming period will run until the end of 2025. Regulation (EU) 2020/2220 has also provided for transitional rules within the period of extension. Since the EAFRD is currently being implemented in the extended period, it is appropriate to provide for the conditions for the new exceptional measure and further budgetary flexibilities as regards the non-regression threshold by amending Regulation (EU) 2020/2220.
- (5) In order to provide for more budgetary flexibility to reallocate funding for the new measure and the existing sub-measure for restoration of agricultural production potential, while continuing the planned investments and actions in disaster prevention and preparedness, as well as climate adaptation to mitigate the impact of the increasingly frequent climate-induced disasters, Member States should be allowed to decrease the non-regression threshold provided for in Article 1(2) of Regulation (EU) 2020/2220 by maximum 15 percentage points but not below the minimum threshold of 30%.
- (6) In order to enable Member States to fully address the consequences of natural disasters occurring as from 1 January 2024, it should be allowed to select for support operations that have been physically completed or fully implemented before the application for the funding under the programme is submitted to the managing authority, provided that the operation is in response to such natural disaster.
- (7) The support under the measure provided for in this Regulation, which aims to secure the competitiveness of SMEs as well as farm and forest holders viability, should concentrate the available resources on beneficiaries who are affected the most by natural disasters and be granted on the basis of objective and non-discriminatory criteria. The support should be provided only to those beneficiaries which were affected by a destruction of at least 30% of the relevant production potential.
- (8) Because of the urgent, temporary and exceptional character of this measure and the need for rapid and simple disbursement of the corresponding payments, a one-off payment and an end date for application of the measure should be set.

⁴ Regulation (EU) 2020/2220 of the European Parliament and of the Council of 23 December 2020 laying down certain transitional provisions for support from the European Agricultural Fund for Rural Development (EAFRD) and from the European Agricultural Guarantee Fund (EAGF) in the years 2021 and 2022 and amending Regulations (EU) No 1305/2013, (EU) No 1306/2013 and (EU) No 1307/2013 as regards resources and application in the years 2021 and 2022 and Regulation (EU) No 1308/2013 as regards resources and the distribution of such support in respect of the years 2021 and 2022 (OJ L 437, 28.12.2020, p. 487, ELI: <http://data.europa.eu/eli/reg/2020/2220/oj>).

⁵ Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549, ELI: <http://data.europa.eu/eli/reg/2013/1306/oj>).

- (9) In order to give higher support to the farmers, forest holders or SMEs that are most severely affected, it is appropriate to allow Member States to adjust the level of the lump-sums for certain categories of eligible beneficiaries, for instance by fixing certain ranges or broad categories, based on objective and non-discriminatory criteria.
- (10) When granting support for the new measure, Member States should take into account the support granted under other national or Union support instruments or private schemes to respond to the impact of natural disasters.
- (11) The resources for the new measure should be programmed with a co-financing rate of up to 100%.
- (12) In order to ensure adequate funding of the new measure provided for in this Regulation without jeopardising other objectives of the rural development programmes, a maximum share of the Union contribution to that measure should be fixed.
- (13) Support for restoring agricultural and forestry production potential in response to natural disasters should prioritise operations based on the 'build back better' principle, this is the use of the recovery, rehabilitation and reconstruction phases after a disaster to increase the resilience of the farming and forestry sector through integrating disaster risk reduction measures, as indicated in the Sendai Framework for Disaster Risk Reduction 2015-2030 of the United Nations Office for Disaster Risk Reduction, while ensuring that selected operations present the best relationship between the amount of support and the objective to ensure disaster resilience.
- (14) To reduce administrative burden of affected beneficiaries and the Member States when applying "force majeure", Member States should have the possibility to consider the whole area to be gravely affected by a natural disaster.
- (15) In order to ensure a uniform implementation of the new measure through the rural development programmes within the legal framework of the programming period 2014-2020, as extended by Regulation (EU) 2020/2220, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁶.
- (16) The implementing powers of the Commission should relate to the presentation of the new measure in the rural development programmes, monitoring and evaluation of the rural development policy, presentation of the annual implementation reports and implementation of checks and penalties.
- (17) Regulation (EU) 2020/2220 should therefore be amended accordingly.
- (18) In view of the devastating effects of the current natural disasters and the urgency to address and mitigate their impact on the Union agri-food and forestry sector, it is considered necessary to use the exception to the eight-week period referred to in Article 4 of Protocol No 1 to the Treaties on the role of national Parliaments in the Union.

⁶ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13, ELI: <http://data.europa.eu/eli/reg/2011/182/oj>).

- (19) Given the urgency of the situation related to the natural disasters, it is appropriate that this Regulation enters into force on the day of its publication in the Official Journal of the European Union.

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2020/2220 is amended as follows:

- (1) in Article 1(2), the following subparagraph is added:

‘By way of derogation from the first subparagraph, second sentence of this paragraph, when reallocating funds to and spending funds for measures referred to in Article 6a of this Regulation and in Article 18(1), point (b), of Regulation (EU) No 1305/2013, Member States may decrease the overall share of the EAFRD contribution reserved for the measures referred to in Article 59(6) of Regulation (EU) No 1305/2013. That decrease shall not go beyond the EAFRD amounts reallocated to the measures referred to in Article 6a of this Regulation and in Article 18(1), point (b) of Regulation (EU) No 1305/2013 and shall not exceed 15 percentage points of the overall share of the EAFRD contribution set in the rural development programmes for the measures referred to in Article 59(6) of Regulation (EU) No 1305/2013. For that purpose, the overall share of the EAFRD contribution set in the rural development programmes as planned at the time of the extension of the period of duration of programmes supported by the EAFRD until 31 December 2022, in accordance with Article 1(2) of this Regulation, shall be taken into account. The overall share reserved for the measures referred to in Article 59(6) of Regulation (EU) No 1305/2013 shall not be lower than the minimum threshold set out in that Article. The same decrease in percentage points may be applied to the additional resources referred to in Article 58a(2) of Regulation (EU) No 1305/2013 without reallocating funds to the measures referred to in Article 6a of this Regulation and in Article 18(1), point (b), of Regulation (EU) No 1305/2013.’;

- (2) in Article 2, the following paragraph 5 is added:

‘5. By way of derogation from Article 65(6) of Regulation (EU) No 1303/2013, the managing authority may select for support operations that have been physically completed or fully implemented before the submission of an application for funding to the managing authority, provided that the operation is implemented through the measure referred to in Article 6a of this Regulation as well as in Article 18(1), point (b), or Article 24(1), point (d), of Regulation (EU) No 1305/2013 and provided that such operation provides a response to a natural disaster which occurred as of 1 January 2024.’;

- (3) the following Articles are inserted:

‘Article 6a

Exceptional temporary support to farmers, forest holders and SMEs particularly affected by natural disasters

1. Support under this measure shall provide emergency assistance to farmers, forest holders and SMEs particularly affected by natural disasters, aiming at ensuring continuity of their business activity, subject to the conditions set out in this Article.
2. Support under this measure shall be subject to the formal recognition by the competent public authorities of Member States that a natural disaster as defined in Article 2(1), point (k), of Regulation (EU) No 1305/2013 has occurred as of 1 January 2024 and that this disaster or measures adopted in accordance with Regulation (EU) 2016/2031* to eradicate or contain a plant disease or pest have caused the destruction of at least 30% of the relevant production potential.
3. Support shall be granted to
 - (a) farmers,
 - (b) private and public forest holders and other private law and public bodies and their associations, excluding State owned forest managed by the State,
 - (c) SMEs active in processing, marketing or development of agricultural products covered by Annex I to the TFEU or cotton, except fishery products or
 - (d) SMEs active in processing, mobilising and marketing of forest products.

With regard to processing of agricultural products, the output of the production process may be a product not covered by Annex I to the TFEU.
4. Member States shall target the support to beneficiaries who are most affected, by determining eligibility conditions on the basis of available evidence.
5. The support shall take the form of a lump sum payment to be paid by 31 December 2025, based on applications for support approved by the competent authority by 30 June 2025. The level of payment may be differentiated by categories of beneficiaries, according to objective and non-discriminatory criteria.
6. The maximum amount of support shall not exceed EUR 42 000 per beneficiary.
7. When granting support under this Article, Member States shall take into account the support granted under other national or Union support instruments or private schemes to respond to the impact of natural disasters in order to ensure sound financial management in accordance with Article 33 of Regulation (EU, Euratom) 2018/1046 while targeting the support to beneficiaries who are most affected.

Article 6b

Provisions applicable to the exceptional temporary support to farmers, forest holders and SMEs particularly affected by natural disasters

1. The exceptional temporary support referred to in Article 6a of this Regulation shall be financed by the EAFRD as a measure within the meaning of Article 13 of Regulation (EU) 1305/2013.
2. The maximum EAFRD contribution for the measure referred to in Article 6a of this Regulation shall be 100%.
3. The support provided for this measure shall not exceed 10% of the total EAFRD contribution to the rural development programme for the years 2021-2022.

Article 6c

Force majeure

As regards the implementation of Regulation (EU) No 1306/2013 for the purposes of the financing, management and monitoring of the CAP when applying a ‘force majeure’ principle, as referred to in Article 2(2) of that Regulation, where a severe natural disaster gravely affects a well-determined area, the Member State concerned may consider that whole area to be gravely affected by that disaster or event.

Article 6d

Commission powers

1. The Commission may adopt implementing acts laying down rules necessary for the implementation of the measure referred to in Article 6a of this Regulation through rural development programmes within the legal framework applicable in the programming period 2014-2020, extended in accordance with Article 1 on:
 - (a) monitoring and evaluation of the rural development policy;
 - (b) rules on presentation of the rural development programmes;
 - (c) presentation of the annual implementation reports;
 - (d) implementation of checks and penalties.
2. The implementing acts referred to in paragraph 1 of this Article shall be adopted in accordance with the examination procedure referred to in Article 5 of Regulation (EU) No 182/2011 of the European Parliament and of the Council**.

Article 6e

Committee procedure

1. In exercising the empowerment as described in Article 6d(1) points (a), (b) and (c) of this Regulation, the Commission shall be assisted by the "Rural Development Committee" established by Article 84 of Regulation (EU) No 1305/2013.
2. In exercising the empowerment as described in Article 6d(1), point (d), of this Regulation the Commission shall be assisted by the "Committee on the Agricultural Funds" established by Article 103(1) of Regulation (EU) 2021/2116 of the European Parliament and of the Council***.

* Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC (OJ L 317, 23.11.2016, p. 4, [ELI: http://data.europa.eu/eli/reg/2016/2031/oj](http://data.europa.eu/eli/reg/2016/2031/oj)).

** Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for

control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13, ELI: <https://eur-lex.europa.eu/eli/reg/2011/182/oj>).

***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: <https://eur-lex.europa.eu/eli/reg/2021/2116/oj>).’.

Article 2

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

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President