



EUROPEAN  
COMMISSION

Brussels, 15.3.2024  
COM(2024) 139 final

2024/0073 (COD)

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**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons for and objectives of the proposal**

Through Strategic Plans under the Common Agricultural Policy (CAP), the European Union aims to foster a smart, competitive, resilient and diversified agricultural sector ensuring long-term food security. It also aims at the same time, to support and strengthen environmental protection, including biodiversity, and climate action, and to contribute to achieving the environmental and climate-related objectives of the Union, including commitments under the Paris Agreement, as well as to strengthen the socio-economic fabric of rural areas.

28 CAP Strategic Plans (CSP) were developed by the Member States and approved by the Commission and first applied in 2023, delivering direct income support to farmers, support for environmental schemes, as well as support for e.g. investments, certain agricultural sectors, rural development, and knowledge and innovation. The Strategic Plans provide both a considerable increase in subsidiarity in management of the CAP and a performance orientation. Expenditure must contribute to delivering on 10 specific economic, environmental and social objectives of the CAP, measured by a series of common indicators.

These Strategic Plans contribute to the Commission's ambitious Green Deal agenda, in combination with regulatory initiatives, research investments and other actions to meet the Union's environmental and 2050 climate objectives. In this light, the CAP Strategic Plan Regulation (Regulation (EU) 2021/2115) introduced higher baseline conditions for farm support, and collectively the 28 Strategic Plans allocate substantially higher amounts of support to farmers for environmental and climate objectives compared to the previous CAP.

Overall, the new approach works well. However, the first year of implementation of the CAP Strategic Plan has made clear that adjustments are necessary to ensure effective implementation of the plans and cut red-tape. Moreover, the implementation of the plans should not be seen in isolation from discussions on other Green Deal legislative proposals, which will or may affect both, farmers directly and the requirements in the Strategic Plans. In addition, the CAP Strategic Plan Regulation was agreed before the start of the large-scale war of aggression of Russia in Ukraine, which continues to strongly influence markets (and farmers' margins), as well as Europe's agricultural policy context.

While the reasons for the widespread protests of farmers across the Member States of the Union are complex and diverse, the above-mentioned reasons are an important part of the context.

The European Council of 1 February 2024 discussed the challenges in the agricultural sector including the concerns raised by the farmers during the protests. Stressing the essential role of the CAP, it called on the Council and the Commission to take work forward as necessary. This requires a spirit of cooperation among the European Commission, the other EU institutions, Member States and the farmers. Commission President Von der Leyen committed to launch a thorough analysis of the administrative burden weighting on farmers' shoulders to identify areas for improvement. Among others, based also on the input received from the Member States collected by the Council Presidency, and from EU farmers' organisations and the European Parliament, the Commission came forward with a non-paper on possible actions for simplification on 22 February 2024 as an input to Council discussions.

The Agriculture and Fisheries Council of 26 February 2024 confirmed its political will to respond effectively to the concerns of farmers and, as a first step, supported a range of measures included in the aforementioned Commission non-paper as priority for the short-term response to the current crisis. It also insisted that a review of the basic acts of the Common Agricultural Policy is necessary and should be initiated as soon as possible. The Commission also carefully listened to the views expressed in the meeting on 26 February of the Committee on Agriculture and Rural Development of the European Parliament during the exchange of views on the proposed simplification package for farmers and national administrations.

### Objective of the proposal

With these proposals, the Commission aims for well-targeted adjustments of the CAP Strategic Plans Regulations to address certain difficulties in their implementation. With this targeted approach, the Commission provides a very significant response to the problems identified and the concerns raised, while it aims to maintain and defend the overall orientation of the current CAP and its role in supporting the transition of European agriculture to sustainable farming. The Commission believes that these targeted amendments will facilitate a quick adoption by the European Parliament and the Council.

The adjustments focus on changes that are beneficial for farmers in reducing their administrative burden, flexibilities that allow national administrations to adapt implementation to address farmers' situations, changes to the balance between conditionality requirements and voluntary schemes which incentivise green practices, as well as reassuring beneficiaries as regards the stability of the policy during the lifetime of the Strategic Plans. For instance, the adjustments with regard to conditionality will give Member States more flexibility in establishing GAEC standards at national level, hence simplifying the burden on farmers, e.g. providing for more options for how to fulfil the requirements or allowing specific well targeted exemptions or derogations, in particular in case of adverse weather conditions. The administrative burden of smaller farmers (up to 10 hectares of agricultural areas, i.e. 65% of farmers) will be eased by exempting them from control visits to check the respect of the conditionality requirements. At the same time, the fact that smaller farmers will be exempted from penalties will also simplify Member States' administrative work, as national authorities will not have to calculate penalties which may fall under the applicable de minimis threshold.

As regards the proposal to increase the number of CSP amendments this should allow Member States to adapt their CAP strategic plans when it is necessary to take into account changing conditions for farmers. In this way requirements that are no longer justified would not remain in place, purely for administrative reasons, making the system simpler.

Member States are responsible for making full use of the simplification provisions to reduce farmers' administrative burden.

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

The proposed amendments are consistent with the general philosophy of the CAP basic acts currently in force (Strategic Plan Regulation and the Regulation on the Financing, management and monitoring of the CAP). Therefore, the proposal is consistent with existing policy provisions.

- **Consistency with other Union policies**

The legal proposal adjusts a limited number of provisions of the CAP regulations currently in force, which were deemed consistent with other Union policies. The proposal is therefore consistent with other Union policies.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

Article 43(2) TFEU since the Regulation amends Regulations (EU) 2021/2115 and 2021/2116 which are mainly based on this legal basis.

- **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. The Union exercises its competence through the adoption of various legislative acts, thereby defining and implementing an EU CAP as provided for in Article 38 to 44 TFEU. Regulations (EU) 2021/2115 and 2021/2116 are part of the legislative framework of the EU CAP. In order to alleviate certain difficulties, provide simplification and to take off burdens from farmers, these Regulations need to be amended, which can only be done at EU level.

- **Proportionality**

The proposal modifies the existing Regulations only to the extent strictly necessary to achieve the objectives outlined above.

- **Choice of the instrument**

Since the original legislative acts are regulations of the European Parliament and the Council, the amendments must also be introduced as a European Parliament and Council regulation by means of the ordinary legislative procedure.

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

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

Not applicable.

- **Stakeholder consultations**

In view of the widespread farm protests and to analyse the administrative burden weighing on farmers' shoulders as well as identify areas for improvement, the Commission has written to four main EU-level farming organisations asking them for proposals of measures at EU level (CAP and other EU legislation) which can reduce administrative burden for farmers. A similar letter has been sent by the Belgian Presidency of the Council to the Ministers of Agriculture, asking them to identify issues at EU level which can reduce administrative burden for farmers. Also, the European Parliament's committee for agriculture and rural development sent a letter identifying six areas where they consider that concrete and immediate action is necessary. The urgent nature of this proposal did not allow for a normal consultation process.

This ad-hoc consultation process that lasted one week has resulted in a wide range of suggestions and proposals. The responses from all Member State administrations are wide in

scope, and while some are addressing practical implementation challenges and are feasible in the short run, many are far reaching and go beyond the reduction of administrative burden, simplification of implementation or creation of policy stability for farmers. The consultation of the farming organisations resulted in calls for urgent action to simplify the administrative burden for farmers, but also stressed the need for a stable and consistent policy framework, proposing further reforms for the longer-term. Similarly, the European Parliament's committee for agricultural and rural development identified a number of key priority areas of work.

The Commission structured the suggestions received into five broad areas:

1. A first series of proposals covers management of CAP Strategic Plans and relates to procedures around amending strategic plans (including the number of allowed amendments), performance monitoring and review (including the Annual Performance Report), and certain elements of the Integrated Administration and Control System (simplification of the Area Monitoring System (AMS) quality assessment methodology, and the use of geo-tagged photos, and Geospatial Applications) as well as the control and penalty system (including rationalisation of all controls on a farm).

The Commission responded to this set of proposals with a number of non-legislative actions and has included a few targeted and limited initiatives in this proposal, notably to facilitate more frequent amendments of CAP Strategic Plans and to eliminate conditionality controls for small farms.

2. A second set of proposals concerns CAP Strategic Plan actions to the benefit of the environment and of the climate. Many proposals concern (drastic) changes to conditionality requirements and controls, but also other proposals were included, e.g. on treatment of small farms or financial management of environmental interventions.

The Commission has already adopted a temporary and partial derogation to GAEC standard 8, first requirement, for 2024 and an amendment of Delegated Regulation (EU) 2022/126 with adjustments for GAEC standard 1. In addition, this proposal contains a few targeted adjustments to conditionality that aim to address implementation concerns. The Commission aims for this surgical approach with a view to maintain the overall policy objectives of the CAP Strategic Plan Regulation as reflected in the decisions of the co-legislators in 2021.

3. A third group of proposals relates to other CAP provisions beyond environment and climate, such as expanding coupled support, postponing or removing social conditionality, or changes to sectoral support schemes, promotion measures and organic farming. Other suggestions call for a more fundamental rethink of EU agricultural policy.

Many of these suggestions go beyond the remit of simplification and improved implementation of the CAP Strategic Plans. Moreover, the Commission stands by key orientations of the CAP Strategic Plan Regulation, such as social conditionality. In addition, several suggestions are already feasible within the increased margin of manoeuvre left to the Member States by the new delivery model of the CAP.

4. A fourth group of suggestions relates to farm income concerns and notably to risk and crisis management, with suggestions to allocate more CAP funds to

crisis management, to revise CAP provisions on support to risk management instruments and take action to improve the position of farmers in the food chain.

While changes to financial aspects of the CAP should be discussed in the context of the preparation of the next Multiannual Financial Framework, the Commission shares the concerns related to farm income and envisages actions to improve the position of farmers in the food chain in a separate work stream.

5. A fifth and final set of suggestions concern regulations outside the CAP, such as on deforestation, forest monitoring, sanitary rules, or renewable energy.

The Commission is considering a number of punctual changes in acts outside of the CAP and is working on non-legislative measures with the aim of simplifying or clarifying certain rules, while other policy changes must be negotiated during ongoing legislative procedures.

- **Collection and use of expertise**

Not applicable (external expertise was not used).

- **Impact assessment**

With a view to the political urgency of tabling this proposal, which aims to respond to a crisis situation in EU agriculture, no impact assessment has been carried out, as foreseen in Tool #1 of the Commission's 'better regulation' guidelines that stipulates the importance of their flexible and proportionate application. This proposal concerns a number of targeted amendments to Regulations (EU) 2021/2115 and 2021/2116. Many of the more sweeping proposals to address concerns in relation to administrative burden and stable and effective implementation of the CAP, as tabled during the ad-hoc consultation process, are not considered. The Commission is of the view that policy stability is important and maintains that the reformed CAP *"plays an important role in supporting EU agriculture in the transition to a sustainable farming model, while also supporting farmers' incomes as well as food security."* This is based on the extensive external assessment of the 28 approved CAP Strategic Plans that the Commission commissioned and that formed the basis for its report to the European Parliament and the Council of 23 November 2023: "Summary of CAP Strategic Plans for 2023-2027: joint effort and collective ambition"<sup>1</sup>, in which the aforementioned quote can be found. In this report the Commission also concluded that *"[t]he new CAP strategic plans are an appropriate tool to pursue CAP policy objectives in an integrated way as Member States use them to prepare and deliver responses to the challenges across their territories, while prioritising objectives and using available resources in an effective and efficient way."*

Nevertheless, the first year of implementation of the CAP Strategic Plan has shown some practical implementation problems. For this reason, in addition to non-legislative actions, certain limited adjustments of the Union legal framework for the CAP are necessary to ensure effective implementation of the CAP Strategic Plans and in particular to further reduce administrative burden linked with their implementation.

A thorough impact assessment for the reform of the CAP that was agreed in 2021 was carried out. This assessment accompanied the proposals tabled by the Commission in 2018<sup>2</sup>. This

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<sup>1</sup> COM (2023) 707 final of 23.11.2023.

<sup>2</sup> SWD (2018) 301 final of 1.6.2018.

impact assessment also provides important background to the adjustments contained in this proposal. More specifically, key differences between the options assessed in 2018 related to the balance of voluntary (“eco-scheme”) or obligatory (“conditionality”) environmental requirements. While the Regulation finally adopted is a mix of both approaches, the impact assessment (p. 35) demonstrates the advantages and drawbacks of both. On the basis of the changed situation and the experiences in the first year of application, the Commission proposes to rebalance in the direction of a more voluntary approach.

- **Regulatory fitness and simplification**

The proposals will specifically reduce burden for small farms, which are micro-enterprises. The proposal to exempt farms under 10 hectares from conditionality controls affects 65% of CAP beneficiaries.

- **Fundamental rights**

The proposal respects the fundamental rights and observes the principles recognised, in particular by the Charter of Fundamental Rights of the European Union.

#### **4. BUDGETARY IMPLICATIONS**

This proposal does not have budgetary impact.

#### **5. OTHER ELEMENTS**

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

As laid down in Article 128 of the CAP Strategic Plan Regulation, a performance framework has been established under the shared responsibility of Member States and the Commission. The performance framework allows reporting, monitoring and evaluation of the performance of the CAP Strategic Plan during its implementation. The changes in this proposal would be covered by this framework.

- **Explanatory documents (for directives)**

Not applicable (the legal text is a regulation).

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

The Commission proposes a number of changes to conditionality.

A general provision is included allowing Member States to allow temporary and targeted derogations from certain conditionality requirements in view of increasingly unpredictable weather conditions that can prevent farmers from complying with requirements, such as deadlines in a given year. For the sake of completeness of the performance, monitoring and evaluation framework, the Commission will consider that Member States once per year inform the Commission about the implementation of such temporary derogations in accordance with Article 143 of Regulation (EU) 2021/2115, in particular paragraph 4 of that Article.

Member States will also be allowed to provide specific exemptions from Good Agricultural and Environmental Condition (GAEC) standards 5, 6, 7 and 9 covering situations where there is a risk that the requirements would run counter to their objectives, for instance due to particular agronomic situations for certain crops on specific soil types and pedoclimatic conditions or due to damage to permanent grasslands, among others due to predators or

invasive species. As regards individual GAECS, the Commission proposes to remove from GAEC standard 8 the obligation to devote a minimum share of arable land to non-productive areas (fallow land) or features (hedges, trees...), while keeping the protection of existing landscape features. Instead, Member States are required to establish an eco-scheme offering support to farmers for keeping a share of arable land in non-productive state or to create new landscape features. This would ensure that farmers are specifically rewarded for these non-productive areas and features that are beneficial for biodiversity on farmland and more generally for rural areas.

With regard to GAEC standard 7 requiring crop rotation, the Commission proposes to keep crop rotation but allow Member States to add the possibility to fulfil this requirement with crop diversification. Crop diversification also contributes to preserving soil potential, by ensuring diversity of crops within a year and hence indirectly promoting rotation of crops from one year to another. The Commission believes that this flexibility will enable farmers affected by regular drought or excessive rainfall to comply with this condition in a way that is more compatible with farming realities. At the same time, the Commission acknowledges and stresses the agronomic benefits of crop rotation. This is why through eco-schemes more ambitious forms of crop rotation and diversification are and should continue to be rewarded, including notably to include protein crops in the rotation, so as to enhance soil quality and the resilience of crop farming.

The application of the standard to cover soil in sensitive periods (GAEC standard 6) has caused considerable administrative rigidities and uncertainty for farmers, who often refer to ‘calendar farming’ that does not recognize the (increasing) variability of the weather. To honor the spirit of flexibility of the CAP Strategic Plans, the Commission proposes to clarify that implementing this conditionality standard will be mostly in the hands of Member States.

It is also proposed to increase the number of requests for amendment of CAP Strategic Plan, which a Member State may submit to two per year (up from the current one per year). This is needed to address more quickly farmers’ changing situations, including those caused by adverse weather events.

For the sake of reducing burden and increasing predictability of CAP support for farmers, the obligation for Member States to assess whether their CAP Strategic Plans need to be amended in case of modifications of certain Union legislation concerning the environment and climate and notify the Commission of this assessment within a certain deadline is proposed to be limited to amendments of legislative acts listed in Annex XIII, that enter into force by 31 December 2025 at the latest. The obligation for Member States to describe how the greater overall contribution to environmental and climate objective set out in Article 105 of Regulation (EU) 2021/2115 is met, and how the green architecture of the CAP contributes to the achievement of and is consistent with long-term national targets set out or deriving from the legislative acts listed in Annex XIII of that Regulation remains in place. In addition, the Commission will estimate the climate change mitigation potential of the CAP Strategic Plans over the period 2023-2027.

It is proposed to amend Regulation (EU) 2021/2116 to exempt small farmers having no more than 10 hectares of agricultural areas from conditionality controls and penalties. The purpose is to alleviate the administrative burden, both for national administrations and for farmers linked to controls and collection of penalties which is higher for small farms in comparison to bigger ones. The exemption of small farmers from conditionality controls and penalties will not affect the controls done under other legislation which are part of the Statutory Management Requirements (SMRs). In addition, 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 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.

In order to address concerns of Member States and farmers already with regard to claim year 2024, it is proposed that amendments to GAEC standards 6, 7 and 8 as well as an exemption from penalties for small farmers having no more than 10 hectares of agricultural areas apply retroactively. In view of this, transitional provisions are proposed for claim year 2024 to ensure that Member States may apply amendments to their CAP Strategic Plans related to GAEC standards 6, 7 and 8 before the Commission approves those changes in line with Article 119 of Regulation (EU) 2021/2115. As regards GAEC standard 8 such a possibility should be linked to the existence of eco-schemes that would cover practices for the maintenance of non-productive areas, such as land lying fallow or eco-schemes for the establishment of new landscape features on arable land. However, the possibility, including from a legal point of view, to provide for retroactive application as regards the amendments to GAEC standards 6, 7 and 8 will depend on the exact content and the date of entry into force of the amendments included in this Regulation. At this moment of time, it is not possible to decide if such a retroactive application can be provided for. The related provisions of Article 3 and 4, second subparagraph are therefore included in brackets in the proposal. Their feasibility should be discussed with the co-legislators in view of the final content and the date of entry into force of this Regulation.

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>3</sup>,

Having regard to the opinion of the Committee of the Regions<sup>4</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EU) 2021/2115 of the European Parliament and Council<sup>5</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>6</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

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<sup>3</sup> OJ C [...], [...], p. [...].

<sup>4</sup> OJ C [...], [...], p. [...].

<sup>5</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>6</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>).

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.
- (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>7</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 for claim year 2024.]

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(\*), or with Article 39 of Council

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<sup>7</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>).

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 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, 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:

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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
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(\*\*\*\*) 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
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(\*\*\*\*\*) 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<sup>(\*\*\*\*\*)</sup> 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	<p>— Retention of landscape features</p> <p>— Ban on cutting hedges and trees during the bird breeding and rearing season</p> <p>— As an option, measures for avoiding invasive plant species</p>	Maintenance of non-productive features to improve on-farm biodiversity
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## 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) 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 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*  
*The President*

*For the Council*  
*The President*