



Brussels, 18.9.2018
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COMMISSION IMPLEMENTING DECISION

of 18.9.2018

authorising derogations from Regulation (EU) No 1307/2013 of the European Parliament and of the Council and from Commission Delegated Regulation (EU) No 639/2014 as regards the implementation of certain conditions relating to the greening payment for claim year 2018 in Belgium, Denmark, Germany, Ireland, France, Latvia, Lithuania, the Netherlands, Poland, Sweden and the United Kingdom in respect of England and Scotland

(Only the Danish, Dutch, English, French, German, Latvian, Lithuanian, Polish and Swedish texts are authentic)

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009¹, and in particular Article 69(1) thereof,

Whereas:

- (1) Chapter 3 of Title III of Regulation (EU) No 1307/2013 provides for a payment for agricultural practices beneficial for the climate and the environment ('greening payment'). Those practices include crop diversification and ecological focus areas. Further rules on those practices are laid down in Chapter 3 of Commission Delegated Regulation (EU) No 639/2014².
- (2) Pursuant to Article 44(4) of Regulation (EU) No 1307/2013, for the purposes of crop diversification, land lying fallow has to be counted as a different crop from grasses or other herbaceous forage. This implies that land that has been grazed or harvested for production purposes cannot be counted as land lying fallow.
- (3) Pursuant to Article 45(2) of Delegated Regulation (EU) No 639/2014, land lying fallow may be qualified as ecological focus area for the purposes of Article 46 of Regulation (EU) No 1307/2013 provided that there is no agricultural production on it.
- (4) Pursuant to Article 45(9) of Delegated Regulation (EU) No 639/2014, catch crops or green cover may be qualified as ecological focus area for the purposes of Article 46 of Regulation (EU) No 1307/2013 on the condition that they were established by sowing a mixture of crop species and provided that the conditions set in that Article are met. Member States are to set up the list of mixtures of crop species to be used and fix the

¹ OJ L 347, 20.12.2013, p. 608.

² Commission Delegated Regulation (EU) No 639/2014 of 11 March 2014 supplementing Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and amending Annex X to that Regulation (OJ L 181, 20.6.2014, p. 1).

period at national, regional, sub-regional or farm level during which areas under catch crops or green cover declared as ecological focus areas have to be in place. This period shall not be less than 8 weeks. In addition, areas under catch crops or green cover shall not include areas under winter crops which are sown in autumn normally for harvesting or for grazing.

- (5) Belgium, Denmark, Germany, Ireland, France, Latvia, Lithuania, the Netherlands, Poland, Sweden and the United Kingdom in respect of England and Scotland have decided that farmers may fulfil the ecological focus area obligation with areas under land lying fallow in accordance with Article 45(2) of Delegated Regulation (EU) No 639/2014 and with areas under catch crop or green cover in accordance with Article 45(9) of that Regulation.
- (6) On 14 August the Commission adopted an Implementing Decision³ authorising Denmark, Latvia, Lithuania, Poland and Sweden, among other Member States, to derogate from the non-production rules linked to land lying fallow used by farmers for the purpose of complying with the ecological focus area or crop diversification obligation in claim year 2018. Those derogations aimed at increasing the availability of fodder resources for livestock that had been diminished by the severe drought experienced by those Member States in the first half of 2018.
- (7) The cumulative effects of exceptional weather conditions experienced in parts of France throughout the first half of 2018, including heavy rainfalls in particular in March, and abnormally high temperatures which led to drought from May to August, had effects to the detriment of agricultural activity. Those effects range from the impossibility to follow the regular farming schedule such as preparation of soil, sowing or harvesting of fodder, to the loss of crops and the destruction of grasslands and pastures.
- (8) Exceptionally dry and hot weather conditions continued from late spring into summer in areas of Belgium, Denmark, Germany, Ireland, Latvia, Lithuania, the Netherlands, Poland, Sweden and the United Kingdom regions of England and Scotland, putting further pressure on the yields and nutritional value of vegetation cultivated for animal feed, especially grasslands and pastures.
- (9) Those developments further increased the risk faced by the livestock sectors of running low on fodder in a situation where some farmers have already drawn on forage reserves that would normally be stocked or where they were prevented from stocking such reserves. Those developments raised further concerns due to increasing costs as a result of the shortage of production, putting at risk the viability of the holdings concerned.
- (10) Besides, some farmers were not able to sow catch crops or green cover in the right time due to the extreme weather conditions that made the soil condition unsuitable to preparatory work. Consequently, without shortening the duration of the period during which areas with catch crops have to be in place, implementing their crop plan will be difficult, in particular where they subsequently plan to sow a winter crop. Having passed this optimum time, farmers risk being obliged to sow winter crops in bad conditions, thus jeopardising the future yield of the crops concerned.

³ Commission Implementing Decision authorising derogations from Regulation (EU) No 1307/2013 of the European Parliament and of the Council and from Commission Delegated Regulation (EU) No 639/2014 as regards the implementation of certain conditions relating to the greening payment for claim year 2018 in Denmark, Estonia, Latvia, Lithuania, Poland, Portugal, Finland and Sweden, C(2018) 5458 of 14 August 2018.

- (11) For those reasons, Belgium, Denmark, Germany, Ireland, France, Latvia, Lithuania, the Netherlands, Poland, Sweden and the United Kingdom in respect of the regions of England and Scotland have requested to be authorised to derogate from certain conditions relating to the greening payment, in order to allow farmers on the affected areas to make use as much as possible of their available areas for the purposes of feeding animals, including areas covered by catch crops which have been declared to meet the ecological focus area requirements and, in the case of Belgium and France, areas of land lying fallow which have been declared to meet the crop diversification or ecological focus area requirements. The requested derogations would also avoid any disruption as regards the crop plan for arable farmers that use catch crops or green cover as an intermediate crop before establishing a winter crop.
- (12) In view of the severity of the weather conditions in 2018 and their consequences, it is appropriate to provide for derogations from Article 44(4) of Regulation (EU) No 1307/2013 and from Article 45(2) and (9) of Delegated Regulation (EU) No 639/2014.
- (13) However, in order to comply with the requirements set out in Article 69(1) of Regulation (EU) No 1307/2013, this Decision should only provide for derogations to the crop diversification and ecological focus area obligations to the extent and for such a period as is strictly necessary. For that reason, the derogations provided for in this Decision should be applicable to farmers established in areas formally recognised by the competent authorities of the Member States concerned as having been affected by that drought or by heavy rainfalls or drought in the case of France, resulting in a significant shortage of fodder resources and in a delay for sowing the catch crops or green cover as regards arable crop producers. Further conditions should also be laid down to target the derogation.
- (14) Taking into account the specific characteristics of the affected areas, including existing farming systems and land use, Belgium, Denmark, Germany, Ireland, France, Latvia, Lithuania, the Netherlands, Poland, Sweden and the United Kingdom in respect of the regions of England and Scotland should have the possibility to decide which of these derogations apply and to which extent, provided the conditions laid down in this Decision are complied with.
- (15) In order to ensure that the derogations authorised by this Decision are effective, Belgium, Denmark, Germany, Ireland, France, Latvia, Lithuania, the Netherlands, Poland, Sweden and the United Kingdom should take their decisions within 30 days after the date of notification of this Decision.
- (16) In order to enable the Commission to monitor the correct application of the relevant rules and the impact of such derogations, Belgium, Denmark, Germany, Ireland, France, Latvia, Lithuania, Poland, the Netherlands, Sweden and the United Kingdom should notify the Commission of their decisions within 14 days after the date on which that decision was taken. It is necessary that those Member States provide information on the estimated and actual surface of the relevant areas with a view to assessing the potential impact of the derogations on the environmental objectives of crop diversification and ecological focus areas established by Regulation (EU) No 1307/2013.
- (17) The measures provided for in this Decision are in accordance with the opinion of the Committee for Direct Payments,

HAS ADOPTED THIS DECISION:

Article 1

Derogations aimed at increasing the availability of fodder for livestock

1. By way of derogation from Article 44(4) of Regulation (EU) No 1307/2013, for claim year 2018 Belgium and France may decide that land lying fallow is considered as a distinct crop even though such land has been grazed or harvested for production purposes.

2. By way of derogation from Article 45(2) of Delegated Regulation (EU) No 639/2014, for claim year 2018 Belgium and France may decide that land lying fallow is considered as ecological focus area even though such land has been grazed or harvested for production purposes.

3. By way of derogation from Article 45(9) of Delegated Regulation (EU) No 639/2014, for claim year 2018 Belgium, Denmark, Germany, Ireland, France, Latvia, Lithuania, the Netherlands, Poland, Sweden and the United Kingdom in respect of the regions of England and Scotland, may decide any of the following:

(a) that areas under catch crops or green cover may be established without sowing a mixture of crop species, provided the crops sown are grasses or other herbaceous forage;

(b) that areas under catch crops or green cover may include areas under winter crops which are sown in autumn normally for harvesting for forage or for grazing.

Article 2

Derogations aimed at avoiding the risks related to the late sowing of winter crops

By way of derogation from the second subparagraph of Article 45(9) of Delegated Regulation (EU) No 639/2014, for claim year 2018 Belgium, Denmark, Germany, Ireland, France, Latvia, Lithuania, the Netherlands, Poland, Sweden and the United Kingdom in respect of the regions of England and Scotland, may shorten the minimum mandatory period during which areas under catch crops or green cover have to be in place as set in that provision, provided a winter crop is sown afterwards.

Article 3

Scope of the derogations

1. The decisions referred to in Article 1 shall apply only to areas where the affected livestock is located and which are formally recognised by the competent authorities as having been affected in 2018 by the drought in the case of Belgium, Denmark, Germany, Ireland, France, Latvia, Lithuania, the Netherlands, Poland, Sweden and the United Kingdom in respect of the regions of England and Scotland or by the heavy rainfalls in the case of France.

2. The decisions referred to in Article 2 shall apply only to areas where the soil condition was made unsuitable for preparatory work before sowing at the relevant time therefore preventing compliance with the 8-week minimum mandatory period and which are formally recognised by the competent authorities as having been affected in 2018 by the drought in Belgium, Denmark, Germany, Ireland, France, Latvia, Lithuania, the Netherlands, Poland, Sweden and the United Kingdom in respect of England and Scotland or by the heavy rainfalls in the case of France.

Article 4

Time limit

The decisions referred to in Articles 1 and 2 shall be taken within 30 days after the date of notification of this Decision.

Article 5

Notification

1. Within 14 days after the date on which the decisions referred to in Articles 1 and 2 were taken, Belgium, Denmark, Germany, Ireland, France, Latvia, Lithuania, the Netherlands, Poland, Sweden and the United Kingdom shall notify the Commission of the decisions taken and of the following information:

- (a) the areas formally recognised by their competent authorities as having been affected in 2018 by the drought in the case of Belgium, Denmark, Germany, Ireland, France, Latvia, Lithuania, the Netherlands, Poland, Sweden and the United Kingdom or by the heavy rainfalls in the case of France;
- (b) an estimate of the surface of the areas where the derogations provided for in Articles 1 and 2 may be applied;
- (c) the duration of the minimum mandatory period set pursuant to Article 2.

2. By 15 December 2018 at the latest, Belgium, Denmark, Germany, Ireland, France, Latvia, Lithuania, the Netherlands, Poland, Sweden and the United Kingdom shall notify the Commission of the surface of the areas where the derogations provided for in Articles 1 and 2 have been applied and the number of the concerned holdings in those areas.

Article 6

Addressees

This Decision is addressed to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, Ireland, the French Republic, the Republic of Latvia, the Republic of Lithuania, the Kingdom of the Netherlands, the Republic of Poland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 18.9.2018

For the Commission
Phil HOGAN
Member of the Commission

