

Brussels, **XXX**  
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## COMMISSION IMPLEMENTING DECISION

of **XXX**

**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**

(Only the Danish, Estonian, Finnish, Latvian, Lithuanian, Polish, Portuguese and Swedish texts are authentic)

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# COMMISSION IMPLEMENTING DECISION

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(Only the Danish, Estonian, Finnish, Latvian, Lithuanian, Polish, Portuguese and Swedish texts are authentic)

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 73/2008<sup>1</sup>, 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 639/2014<sup>2</sup>.
- (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) In January, February and March 2018 in the case of Portugal and in May or June 2018 in the case of Denmark, Estonia, Latvia, Lithuania, Poland, Finland and Sweden, the agricultural activity in certain areas of these Member States was significantly affected by severe drought, in particular as regards the fodder resources for livestock. Exceptionally low levels of precipitation combined with below normal temperatures in Portugal and exceptionally high temperatures in Denmark, Estonia, Latvia, Lithuania,

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<sup>1</sup> OJ L 347, 20.12.2013, p. 608.

<sup>2</sup> 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).

Poland, Finland and Sweden affected the yields of annual and pluriannual pastures and grasslands, either by delaying their vegetative cycle or by causing their premature development, respectively. Those conditions also had consequences for the nutritional value of the crops concerned. In parallel, the cultivation of alternative sources of fodder for animals such as winter or spring sown cereals was also affected by those conditions, either by delaying the seeding of spring crops because of dryness of soil or by causing their early maturing or negatively affected germination. Those conditions led some farmers to drawing on forage reserves that would normally be stocked for use in a later season or prevented them from stocking such reserves. Those developments raised concerns as to the affordability of fodder for animals at short and long term due to their increasing costs as a result of the shortage of production, putting at risk the viability of the holdings concerned.

- (5) For those reasons, Denmark, Estonia, Latvia, Lithuania, Poland, Portugal, Finland and Sweden requested to have a possibility to derogate from certain conditions relating to the greening payment, in order to allow farmers on the affected areas without delay to make use as much as possible of their available areas for the purposes of feeding their animals, including land lying fallow, which have been declared to meet the crop diversification or ecological focus area requirements.
- (6) In view of the severity of that drought and its consequences, it is appropriate to provide for derogations from Article 44(4) of Regulation (EU) No 1307/2013 and from Article 45(2) of Delegated Regulation (EU) No 639/2014.
- (7) 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 affected by that drought, resulting in a shortage of fodder resources, thus affecting livestock farming.
- (8) Taking into account the specific characteristics of the affected areas, including existing farming systems and land use, Denmark, Estonia, Latvia, Lithuania, Poland, Portugal, Finland and Sweden 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.
- (9) In order to ensure that the derogations authorised by this Decision are effective, Denmark, Estonia, Latvia, Lithuania, Poland, Portugal, Finland and Sweden should take decision within 30 days after the date of notification of this Decision.
- (10) In order to enable the Commission to monitor the correct application of the relevant rules and the impact of such derogations, Denmark, Estonia, Latvia, Lithuania, Poland, Portugal, Finland and Sweden 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.
- (11) 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 from certain conditions for receiving the greening payment**

1. By way of derogation from Article 44(4) of Regulation (EU) No 1307/2013, for claim year 2018 Denmark, Estonia, Latvia, Lithuania, Poland, Portugal, Finland and Sweden 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 Denmark, Estonia, Latvia, Lithuania, Poland, Portugal, Finland and Sweden may decide that land lying fallow is considered as ecological focus area even though such land has been grazed or harvested for production purposes.

#### *Article 2*

##### **Scope of the derogations**

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 of Denmark, Estonia, Latvia, Lithuania, Poland, Portugal, Finland and Sweden as affected by the drought in January, February and March 2018 in the case of Portugal and in May or June 2018 in the case of Denmark, Estonia, Latvia, Lithuania, Poland, Finland and Sweden.

#### *Article 3*

##### **Time limit**

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

#### *Article 4*

##### **Notification**

1. Within 14 days after the date on which the decisions referred to in Article 1 were taken, Denmark, Estonia, Latvia, Lithuania, Poland, Portugal, Finland and Sweden shall notify the Commission of the decisions taken and of the following information:

- (a) the areas formally recognised by their competent authorities as affected by the drought in January, February and March 2018 in the case of Portugal and in May or June 2018 in the case of Denmark, Estonia, Latvia, Lithuania, Poland, Finland and Sweden;
- (b) an estimate of the surface of the areas where the derogations provided for in Article 1 may be applied.

2. By 15 December 2018 at the latest, Denmark, Estonia, Latvia, Lithuania, Poland, Portugal, Finland and Sweden shall notify the Commission of the surface of the areas where the derogations provided for in Article 1 have been applied.

#### *Article 5*

##### **Addressees**

This Decision is addressed to the Kingdom of Denmark, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Poland, the Portuguese Republic, the Republic of Finland and the Kingdom of Sweden.

Done at Brussels,

*For the Commission*  
*Phil HOGAN*  
*Member of the Commission*

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