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**COMMISSION DELEGATED REGULATION (EU) No .../..**

**of **XXX****

**supplementing certain provisions of Regulation (EU) No .... of the European Parliament and the Council on support for rural development by the European Agricultural Fund for rural development (EAFRD) in relation to the conditions of support under certain measures and introducing transitional provisions**

## **EXPLANATORY MEMORANDUM**

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

All policy choices for support for rural development are made in the basic acts for the Common Strategic Framework for European Structural and Investment (ESI) Funds and for the reformed Common Agriculture Policy (CAP). This Regulation supplements the non-essential elements for non-control rules as defined by the co-legislators in the Regulation (EU) No [...]RD].

Altogether 14 empowerments to define technical arrangements in a delegated act are foreseen in the Regulation (EU) No [...]RD]. These relate to the definition of young farmers, arrangements for farm and forestry visits, quality schemes and promotion, content of the business plan under investment measures, afforestation, rules for commitments and activities under agri-environment-climate measure, conservation of genetic resources – both in agriculture and forestry, calculation methods to avoid double financing, scope for animal welfare commitments, rules for support under cooperation, duration of commercial loans contracted to mutual funds, common rules for investment measures and energy efficiency infrastructure, definition of conditions applicable to conversion or adjustment of commitments under area related measures, and transitional rules which are not covered by the ad-hoc basic act (EU) No [...].

### **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

In line with the European Commission communication to the European Parliament, and the Council COM(2009)673 on the implementation of Article 290 of the Treaty on the Functioning of the European Union, the highest importance was given to consultation of experts. Preparatory work started in the last trimester of 2012. Experts' observations and suggestions were documented in a Questions and Answer document, and particular attention was given to the practical implications and reduction of administrative burden.

This Regulation does not introduce any new policy choices in addition to those already made in the basic acts. Thus it is covered by the Impact Assessment carried on for the CAP reform 'CAP towards 2020' SEC(2011)1153.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

This Regulation supplements the Regulation (EU) No [...]RD] with the following non-essential elements:

- Conditions for young farmers when not setting up as sole head of the holding, and limit of 36 month as grace period for the acquisition of occupational skills;
- Provision on the definition of the duration and the content of the farm and forest visits in the rural development programmes;
- Characteristics of group of producers and type of operations under quality schemes and promotion, conditions for non-discrimination, and exclusion of commercial brands;
- Minimum requirements for the content of the business plan under farm and business development measure, as well as criteria for setting the thresholds for access to support;

- Provisions to avoid inappropriate afforestation and requirement for planting of species;
- Conditions applicable to commitments for extensification of livestock, and to rear local breeds in danger to being lost to farming;
- Definition of the types of operations eligible for support for conservation of genetic resources in agriculture and forestry;
- Provisions to avoid double funding of the practises beneficial for the climate and the environment under the two pillars of the CAP;
- Definition of the areas in which animal welfare should provide upgraded standards;
- Definition of local markets and short supply chains, "small operators" as micro-enterprise, and conditions for eligibility of promotion activities under co-operation measure;
- Limitation of duration of commercial loans taken by mutual funds to minimum one and maximum five years;
- Common rules for investment measures – eligibility of costs connected with leasing contracts, condition for eligibility of expenditure related to second hand equipment to be defined in rural development programmes, as well as requirements for investments for energy efficiency;
- Conditions applicable to the conversion of commitments for agri/forest-environment-climate, organic farming and animal welfare measures and the definition of other situations, such as increase of area of the commitment, where no reimbursement is required;
- Transition rules to cover the commitments undertaken during the 2007-2013 programming period from EAFRD contribution in the 2014-2020 programming period.

#### **4. BUDGETARYIMPLICATION**

This draft Commissions Delegated Regulation only implements the empowerments as defined by the co-legislators in the Regulation (EU) No [...][RD]. Thus the draft delegated act will not have any impact on the EU budget in addition to that of the the Regulation (EU) No [...][RD].

# COMMISSION DELEGATED REGULATION (EU) No .../..

of **XXX**

**supplementing certain provisions of Regulation (EU) No .... of the European Parliament and the Council on support for rural development by the European Agricultural Fund for rural development (EAFRD) in relation to the conditions of support under certain measures and introducing transitional provisions**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No [...] [RD] of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)<sup>1</sup>, and in particular Articles 2(3), 14(5), 16(5), 19(8), 22 (3), 28(10), 28(11), 29(6), 30(8), 33(4), 34(5), 35(10), 36(5), 45(6), 47(6) and Article 89 thereof,

Whereas:

- (1) Regulation (EU) No [...] [RD] lays down general rules governing Union support for rural development financed by the European Agricultural Fund for Rural Development (the EAFRD), complementing the common provisions for the European Structural and Investment Funds laid down in Part Two of Regulation (EU) No [...] [CPR] of the European Parliament and of the Council<sup>2</sup>. Supplementary rules should be laid down.
- (2) Member States should establish and apply specific conditions for access to support for young farmers in case they are not setting up as a sole head of the holding. In order to ensure equal treatment of beneficiaries irrespective of the legal form under which they choose to set up in an agricultural holding, it should be provided that the conditions under which a legal person or other form of partnership may be considered to be a 'young farmer' should be equivalent to those of a natural person. A grace period, sufficiently long to allow young farmers to acquire the needed qualifications, should be provided for.
- (3) In order to ensure that farm and forest exchange schemes and farm and forest visits supported by the EAFRD are clearly defined and demarcated in relation to similar actions under other Union schemes, while at the same time taking into account the diversity of national situations, Member States should define the duration and content of such schemes and visits in their rural development programmes. That content should focus on certain areas, closely linked to the achievement of the Union priorities for rural development.
- (4) Rules specifying the characteristics of groups of producers and the types of actions that may receive support under the promotion component of the quality schemes

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<sup>1</sup> OJ L [...], [...], p. [...].

<sup>2</sup> Regulation (EU) No [...] [CPR] of the European Parliament and of the Council of [date...] laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L [...], [...], p. [...]).

measure, setting conditions to prevent distortion of competition and discrimination against certain products and excluding commercial brand names from support should be laid down.

- (5) The business plans referred to in Article 19(4) of Regulation (EU) No [...] [RD] should provide sufficient elements to allow assessment of the attainment of the targets of the selected operation, while taking due account of the principle of proportionality. In order to ensure equal treatment among beneficiaries across the Union and to facilitate monitoring, the criterion to be used for setting the thresholds referred to in Article 19(4) of that Regulation should be production potential of the agricultural holding.
- (6) Minimum environmental requirements with which the afforestation of agricultural land must comply should be laid down ensuring that no inappropriate afforestation of sensitive habitats including areas under high natural value farming takes place and that the need for resilience to climate change is taken into account. On sites designated as Natura 2000, afforestation should be consistent with the management objectives of the sites concerned. More stringent rules should be provided for afforestation operations leading to the creation of larger forests.
- (7) Conditions applicable to commitments to extensify livestock farming, to rear local breeds in danger of being lost to farming and to preserve plant genetic resources under threat of genetic erosion should ensure that commitments are defined in accordance with the Union priorities for rural development and in particular the need to ensure the protection of the landscape and its features, of natural resources including water, of soil and of genetic diversity.
- (8) Operations which may be eligible for support for the conservation and sustainable use and development of genetic resources in agriculture and the conservation and promotion of forest genetic resources should be defined.
- (9) In order to exclude double funding of the agricultural practices beneficial for the climate and the environment and equivalent practices referred to in Article 28 of Regulation (EU) No [...] [DP] of the European Parliament and of the Council<sup>3</sup>, to avoid distortion of competition among farmers and to ensure sound financial management of EAFRD funds, it should be provided that additional costs and income foregone resulting from those practices are deducted from the relevant payments.
- (10) The areas in which animal welfare commitments are to provide upgraded standards of production methods should be defined. In doing so it should be avoided that animal welfare commitments overlap with standard farming practices and in particular vaccination to prevent pathologies.
- (11) Short supply chains and local markets in relation to which support may be given should be specified. In order to allow for a clear demarcation between the two, the number of intermediaries should be used as a criterion defining short supply chains whereas kilometric distance from the farm, taking into account specific geographic features of the area concerned, should be the criterion defining local markets, unless a convincing alternative criterion is presented. Co-operation among small operators should be sharply focused on overcoming the general disadvantages caused by fragmentation in rural areas. Therefore, it should be limited to micro-enterprises and natural persons who are about to start up a micro-enterprise at the moment of applying

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<sup>3</sup> Regulation (EU) No [...] [DP] of the European Parliament and of the Council of [date...] [title...] (OJ L [...], [...], p. [...]).

for support. In order to ensure a coherent approach in the implementation of the co-operation measure only promotion activities related to short supply chains and local markets should be supported under that measure.

- (12) In order to ensure that contributions related to the interest of commercial loans taken by the mutual funds referred to in Article 38(3)(b) and Article 39(4) of Regulation (EU) No [...] [RD] are maintained at an appropriate level, the minimum and maximum duration of those commercial loans should be of between one and five years.
- (13) In order to ensure the efficient use of EAFRD resources certain types of expenditure linked to leasing contracts, such as lessor's margin, refinancing costs overheads and insurance charges should be excluded from support. In order to take account of the differing financial and development conditions of the agricultural sector in the Member States, while ensuring sound financial management of EAFRD resources, Member States should be required to define in their rural development programmes the conditions under which second hand equipment may be eligible for support. In accordance with the Union priorities for rural development, only renewable energy investments with high level energy efficiency should receive EAFRD support. For that purpose, Member States should establish minimum criteria for energy efficiency.
- (14) The conditions applicable to conversion or adjustment of commitments under the measures laid down in Articles 28, 29, 33 and 34 of Regulation (EU) No [...] [RD] should be laid down and situations in which reimbursement of the aid shall not be required should be defined. It should be ensured that conversion or adjustment of commitments is only possible when the environmental objectives of the commitment are safeguarded or reinforced.
- (15) Provisions for the transition from rural development support under Council Regulation (EC) No 1698/2005<sup>4</sup> or, in the case of Croatia, Council Regulation (EC) No 1085/2006<sup>5</sup>, to support under Regulation (EU) No [...] [RD] should be adopted. Taking into account that a number of transitional provisions for rural development have already been introduced by Regulation (EU) No [...] [ad hoc] of the European Parliament and of the Council<sup>6</sup>, this Regulation should lay down the conditions under which the expenditure relating to measures referred to in Articles 52 and 63 of Regulation (EC) No 1698/2005 becomes eligible under Regulation (EU) No [...] [RD].
- (16) Since Regulation (EU) No [...] [RD] replaces Regulation (EC) No 1698/2005 it is appropriate to repeal the implementing rules of Regulation (EC) No 1698/2005 laid down by Commission Regulation (EC) No 1974/2006<sup>7</sup>. Regulation (EC) No 1974/2006 should therefore be repealed.

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<sup>4</sup> 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).

<sup>5</sup> Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA) (OJ L 210, 31.7.2006, p. 82).

<sup>6</sup> Regulation (EU) No [...] [...] of the European Parliament and of the Council of [...] laying down certain transitional provisions on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and amending Regulation (EU) No [...] [RD] as regards resources and their distribution in respect of the year 2014 and amending Council Regulation (EC) No 73/2009 and Regulations (EU) No [...] [DP], (EU) No [...] [HZR] and (EU) No [...] [sCMO] as regards their application in the year 2014 (OJ L [...], [...], p. [...]).

<sup>7</sup> Commission Regulation (EC) No 1974/2006 of 15 December 2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 368, 23.12.2006, p. 15).

- (17) In view of the fact that at the moment of publication of this Regulation in the *Official Journal of the European Union* the 2014-2020 programming period will have already started, it is necessary to shorten as much as possible the delay for its entry into force. It should therefore enter into force on the day of its publication and apply as of the first day of the 2014-2020 programming period, on 1 January 2014,

HAS ADOPTED THIS REGULATION:

## **CHAPTER I**

### **Scope**

#### *Article 1* *Scope*

This Regulation lays down:

- (1) provisions supplementing Regulation (EU) No [...] [RD] as regards:
- (a) young farmers,
  - (b) farm and forest exchange schemes and visits,
  - (c) quality schemes – promotion,
  - (d) farm and business development,
  - (e) afforestation and creation of woodland,
  - (f) agri-environment-climate,
  - (g) conservation of genetic resources in agriculture and in forestry,
  - (h) exclusion of double-funding,
  - (i) animal welfare,
  - (j) cooperation,
  - (k) commercial loans to mutual funds,
  - (l) investments,
  - (m) conversion or adjustment of commitments,
  - (n) extended or new commitments;
- (2) specific transitional rules laying down the conditions under which support approved by the Commission under Regulation (EC) No 1698/2005, or, in the case of Croatia, under Regulation (EC) No 1085/2006, may be integrated into support provided under Regulation (EU) No [...] [RD], including, in the case of Croatia, for technical assistance.

## CHAPTER II

### Provisions supplementing rules on rural development measures

#### *Article 2* *Young farmer*

1. Member States shall establish and apply specific conditions for access to support where a young farmer as defined in Article 2(1)(n) of Regulation (EU) No [...] [RD] is not setting up as a sole head of the holding. Those conditions shall be equivalent to those required for a young farmer setting up as sole head of a holding. In all cases, control over the holding shall be held by young farmers.
2. For the purpose of this Article, 'natural person having control over the legal person' means a natural person who is capable of exercising effective and long-term control over the legal person in terms of decisions related to management, benefits and financial risks. The effective and long-term control may be exercised by
  - (a) either by being the manager or co-manager of the legal person,
  - (b) or by otherwise being able to take these decisions either alone or together with other young farmers within the meaning of the first subparagraph of Article 5036(2) of Regulation (EU) No DP.
3. All the elements of the definition of young farmer set out in in Article 2(1)(n) of Regulation (EU) No [...] [RD] have to be met at the moment of submission of an application for support under that Regulation. However, a grace period, not exceeding 36 months from the date of the individual decision granting support, may be allowed to the beneficiary, in order to meet the conditions relating to the acquisition of the occupational skills specified in the rural development programme.

#### *Article 3* *Farm and forest exchange schemes and visits*

Member States shall define the duration and the content of the short-term farm and forest management exchange schemes and farm and forest visits referred to in Article 14(1) of Regulation (EU) No [...] [RD] in their rural development programmes. Such schemes and visits shall focus, in particular, on sustainable farming and forestry methods and/or technologies, farm diversification, farms participating in short supply chains, the development of new business opportunities and new technologies, and on the improvement of forest resilience.

#### *Article 4* *Quality schemes - promotion*

1. Groups of producers receiving support under Article 16(1) and (2) of Regulation (EU) No [...] [RD] shall be entities, irrespective of their legal form, which bring together operators participating in a quality scheme for agricultural products, cotton or foodstuffs as referred to in Article 17(1) of that Regulation, for a specific product covered by one of those schemes.
2. Types of actions eligible for support under Article 16(1) and (2) of Regulation (EU) No [...] [RD] shall have the following characteristics:



- (a) be designed to induce consumers to buy the products covered by a quality scheme for agricultural products, cotton or foodstuffs as referred to in Article 17(1) of Regulation (EU) No [...] [RD], participation in which receives support under the rural development programme; and
  - (b) draw attention to the specific features or advantages of the products concerned, notably the quality, specific production methods, high animal welfare standards and respect for the environment linked to the quality scheme concerned.
- 3. Eligible actions shall not incite consumers to buy a product due to its particular origin, except for products covered by the quality schemes introduced by Title II of Regulation (EU) No 1151/2012 of the European Parliament and of the Council<sup>8</sup>, by Chapter III of Regulation (EC) No 110/2008 of the European Parliament and of the Council<sup>9</sup>, by Chapter III of Regulation (EU) No [...] of the European Parliament and of the Council<sup>10</sup> and by Section II of Chapter I of Title II of Part II of Regulation (EU) No [...] [sCMO] of the European Parliament and of the Council<sup>11</sup> with respect to wine. The origin of the product may be indicated, provided that the mention of the origin is subordinate to the main message.
- 4. No support under Article 16(1) and (2) of Regulation (EU) No [...] [RD] shall be granted for information and promotion actions concerning commercial brand names.

*Article 5*  
*Farm and business development*

- 1. The business plan referred to in Article 19(4) of Regulation (EU) No [...] [RD] shall describe at least:
  - (a) In the case of start-up aid to young farmers:
    - (i) the initial situation of the agricultural holding;
    - (ii) milestones and targets for the development of the activities of the agricultural holding;
    - (iii) details of the actions required for the development of the activities of the agricultural holding, such as investments, training, advice;
  - (b) In the case of start-up aid for non-agricultural activities in rural areas:
    - (i) the initial economic situation of the person or micro- or small- enterprise applying for support;
    - (ii) milestones and targets for the development of the new activities of the person or agricultural holding or of the micro- or small- enterprise;
    - (iii) details of the actions required for the development of the activities of the person or agricultural holding or micro- or small- enterprise, such as details of investments, training, advice;

<sup>8</sup> Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

<sup>9</sup> Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 (OJ L 39, 13.2.2008, p. 16).

<sup>10</sup> Regulation (EU) No [...] of [...] of [date...] on the definition, description, presentation, labelling and the protection of geographical indications for aromatized wine products (OJ L [...], [...], p. [...]).

<sup>11</sup> Regulation (EU) No [...] of [...] of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products (Single CMO Regulation) (OJ L [...], [...], p. [...]).

- (c) In the case of start-up aid for the development of small farms:
  - (i) the initial situation of the agricultural holding; and
  - (ii) details of actions that could support the achievement of economic viability, such as investments, training, co-operation.
- 2. Member States shall define the thresholds referred to in third subparagraph of Article 19(4) of Regulation (EU) No [...] [RD] in terms of production potential of the agricultural holding, measured in standard output, as defined in Article 5 of Commission Regulation (EC) No 1242/2008<sup>12</sup>, or an equivalent.

*Article 6*  
*Afforestation and creation of woodland*

The following minimum environmental requirements shall apply in the context of the afforestation and creation of woodland measure referred to in Article 22 of Regulation (EU) No [...] [RD]:

- (a) the selection of species to be planted, of areas and of methods to be used shall avoid the inappropriate afforestation of sensitive habitats such as peat lands and wetlands and negative effects on areas of high ecological value including areas under high natural value farming. On sites designated as Natura 2000 pursuant to Council Directive 92/43/EEC<sup>13</sup> and Directive 2009/147/EC of the European Parliament and of the Council<sup>14</sup> only afforestation consistent with the management objectives of the sites concerned and agreed with the Member State's authority in charge of implementing Natura 2000 shall be allowed;
- (b) the selection of species, varieties, ecotypes and provenances of trees shall take account of the need for resilience to climate change and to natural disasters and the pedologic and hydrologic condition of the area concerned. The beneficiary shall be required to protect and care for the forest at least during the period for which the premium for agricultural income foregone and maintenance is paid. This shall include tending and thinnings, as appropriate, in the interest of the future development of the forest and regulating competition with herbaceous vegetation and avoiding the building up of fire prone undergrowth material. As regards fast-growing species, Member States shall define the minimum and maximum time before felling. The minimum time shall not be less than 8 years and the maximum shall not exceed 20 years;
- (c) in cases where, due to difficult environmental or climatic conditions, including environmental degradation, the planting of perennial woody species cannot be expected to lead to the establishment of forest cover as defined under the applicable national legislation, the Member State may allow the beneficiary to establish other woody vegetation cover. The beneficiary shall provide the same level of care and protection as applicable to forests;

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<sup>12</sup> Commission Regulation (EC) No 1242/2008 of 8 December 2008 establishing a Community typology for agricultural holdings (OJ L 335, 13.12.2008, p. 3).

<sup>13</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

<sup>14</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

- (d) in the case of afforestation operations leading to the creation of forests of a size exceeding a certain threshold, to be defined by Member States, the operation shall consist of either:
  - (i) the exclusive planting of ecologically adapted species and/or species resilient to climate change in the bio-geographical area concerned, which have not been found, through an assessment of impacts, to threaten biodiversity and ecosystem services, or to have a negative impact on human health; or
  - (ii) a mix of tree species which includes either:
    - at least 10 % of broadleaved trees by area, or
    - a minimum of three tree species or varieties, with the least abundant making up at least 10 % of the area.

## *Article 7*

### *Agri-environment-climate*

1. Commitments under the agri-environment-climate measure referred to in Article 28 of Regulation (EU) No [...] [RD] to extensify livestock farming shall comply with at least the following conditions:
  - (a) the whole grazed area of the holding is managed and maintained to avoid over- and under-grazing;
  - (b) livestock density is defined taking account of all grazing livestock kept on the farm or, in the case of a commitment to limit nutrient leaching, all animals kept on the farm which are relevant to the commitment in question.
2. Commitments under the agri-environment-climate measure referred to in Article 28 of Regulation (EU) No [...] [RD] to rear local breeds in danger of being lost to farming or to preserve plant genetic resources under threat of genetic erosion shall require:
  - (a) to rear farm animals of local breeds, genetically adapted to one or more traditional production systems or environments in the country, in danger of being lost to farming; or
  - (b) to preserve plant genetic resources naturally adapted to the local and regional conditions and under threat of genetic erosion.

The following species of farm animals shall be eligible for support:

- (a) cattle;
  - (b) sheep;
  - (c) goats;
  - (d) equidae;
  - (e) pigs;
  - (f) birds.
3. Local breeds shall be considered as being in danger of being lost to farming if the following conditions are fulfilled:
    - (a) the number, at national level, of breeding females concerned is stated;

- (b) that number and the endangered status of the listed breeds is certified by a duly recognised relevant scientific body;
- (c) a duly recognised relevant technical body registers and keeps up-to-date the herd or flock book for the breed;
- (d) the bodies concerned possess the necessary skills and knowledge to identify animals of the breeds in danger.

The information on the fulfilment of those conditions shall be included in the rural development programme.

- 4. Plant genetic resources shall be considered as being under threat of genetic erosion on condition that sufficient evidence of genetic erosion, based upon scientific results or indicators for the reduction of landraces/primitive local varieties, their population diversity and, where relevant, for modifications in the prevailing agricultural practices at local level is included in the rural development programme.
- 5. Activities covered by the type of agri-environment-climate commitments referred to in paragraphs 1 to 4 of this Article shall not be eligible for support under Article 28(9) of Regulation (EU) No [...] [RD] .

#### *Article 8*

##### *Conservation of genetic resources in agriculture and in forestry*

- 1. For the purposes of this Article, the following definitions shall apply:
  - (a) 'in situ conservation' in agriculture means the conservation of genetic material in ecosystems and natural habitats and the maintenance and recovery of viable population of species or feral breeds in their natural surroundings and, in the case of domesticated animal breeds or cultivated plant species, in the farmed environment where they have developed their distinctive properties;
  - (b) 'in situ conservation' in forestry means the conservation of genetic material in ecosystems and natural habitats and the maintenance and recovery of viable population of species in their natural surroundings;
  - (c) 'on-farm or on-forest holding conservation' means in situ conservation and development at farm or forest holding level;
  - (d) 'ex situ conservation' means the conservation of genetic material for agriculture or forestry outside their natural habitat;
  - (e) 'ex situ collection' means a collection of genetic material for agriculture or forestry maintained outside their natural habitat.
- 2. Operations for the conservation of genetic resources in agriculture and in forestry eligible for support under Articles 28(9) and 34(4) of Regulation (EU) No [...] [RD] shall include the following:
  - (a) targeted actions: actions promoting the in situ and ex situ conservation, characterisation, collection and utilisation of genetic resources in agriculture and in forestry, including web-based inventories of genetic resources currently conserved in situ, including on-farm or on-forest holding conservation, and of ex situ collections and databases;
  - (b) concerted actions: actions promoting the exchange of information for the conservation, characterisation, collection and utilisation of genetic resources in

Union agriculture or forestry, among competent organisations in the Member States;

- (c) accompanying actions: information, dissemination and advisory actions involving non-governmental organisations and other relevant stakeholders, training courses and preparation of technical reports.

#### *Article 9*

##### *Exclusion of double-funding of agricultural practices beneficial for the climate and the environment and of equivalent practices*

1. For the purposes of the support under Articles 28(6), 29(4) and 30(1) of Regulation (EU) No [...] [RD], the calculation of such payments shall take into account only the additional costs and/or income foregone linked to the commitments which go beyond the relevant obligatory practices under Article 43 of Regulation (EU) No [...] [DP].
2. When an agri-environment-climate commitment under Article 28 of Regulation (EU) No [...] [RD] for practices referred to in Article 43(12)(c) of Regulation (EU) No [...] [DP] is notified, in accordance with the rules of Article 43(8) of Regulation (EU) No [...] [DP], as equivalent to one or more of the practices established under Article 43(2) of Regulation (EU) No [...] [DP], the payment for the agri-environment-climate commitment under Article 28(6) of Regulation (EU) No [...] [RD] shall be reduced by a lump sum corresponding to a part of the greening payment in the Member State or region for each greening practice as established in accordance with Article 43(12)(c) of Regulation (EU) No [...] [DP].

#### *Article 10*

##### *Animal welfare*

Animal welfare commitments eligible to receive support under Article 33 of Regulation (EU) No [...] [RD] shall provide upgraded standards of production methods in one of the following areas:

- (a) water and feed in accordance with the natural needs of animal husbandry;
- (b) housing conditions, such as space allowances, bedding, natural light;
- (c) outdoor access;
- (d) practices which avoid mutilation and/or castration of animals or use of anaesthetics and anti-inflammatory medication in cases when mutilation or castration of animals is necessary.

#### *Article 11*

##### *Cooperation*

1. Support for the establishment and development of short supply chains, as referred to in Article 35(2)(d) of Regulation (EU) No [...] [RD] shall cover only supply chains involving no more than one intermediary between farmer and consumer.
2. Support for the establishment and development of local markets, as referred to in Article 35(2)(d) of Regulation (EU) No [...] [RD] shall cover markets for which:
  - (a) the rural development programme sets out a kilometric radius from the farm of origin of the product, within which the activities of processing and sale to the final consumer have to take place; or

- (b) the rural development programme sets out a convincing alternative definition.
3. For the purposes of operations supported under Article 35(2)(c) of Regulation (EU) No [...]RD], "small operator" shall mean a microenterprise as defined in Commission Recommendation 2003/361<sup>15</sup>, or a natural person.
4. The promotion activities referred to in Article 35(2)(e) of Regulation (EU) No [...]RD] shall be eligible for support only in respect of short supply chains and local markets meeting the specifications laid down in paragraphs 1 and 2 of this Article.

*Article 12*  
*Commercial loans to mutual funds*

Where the source of the funds for the financial compensation to be paid by the mutual funds referred to in Articles 38 and 39 of Regulation (EU) No [...]RD] is a commercial loan, the duration of the loan shall be of between one and five years.

*Article 13*  
*Investments*

For the purposes of Article 45 of Regulation (EU) No [...]RD]:

- (a) in the case of leasing, other costs connected with the leasing contract, such as lessor's margin, interest refinancing costs, overheads and insurance charges, shall not be eligible expenditure;
- (b) Member States shall set out in their rural development programmes the conditions under which the purchase of second-hand equipment may be regarded as eligible expenditure;
- (c) Member States shall require compliance with minimum standards for energy efficiency for supported investments that consume or produce energy, where such standards exist at national level;
- (d) investments in installations, the primary purpose of which is electricity production from biomass, shall not be eligible for support unless a minimum percentage of heat energy is utilised, to be determined by the Member States;
- (e) Member States shall establish thresholds for the maximum proportions of cereals and other starch rich crops, sugars and oil crops used for bioenergy production, including biofuels, for different types of installations. Support to projects producing biofuel or bioliquid shall be limited to biofuels or bioliquid meeting the sustainability criteria laid down in Article 17(2) to (6) of Directive 2009/28/EC of the European Parliament and of the Council<sup>16</sup>. In that context, a general assessment shall be included in the strategic environmental assessment of the rural development programme.

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<sup>15</sup> Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

<sup>16</sup> Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16).

*Article 14*  
*Conversion or adjustment of commitments*

1. Member States may authorise one commitment under Articles 28, 29, 33 or 34 of Regulation (EU) No [...]RD] to be converted into another commitment during the period of its operation, provided that all the following conditions are fulfilled:
  - (a) the conversion is of significant benefit to the environment or to animal welfare;
  - (b) the existing commitment is substantially reinforced;
  - (c) the approved rural development programme includes the commitments concerned.

A new commitment shall be undertaken for the full period specified in the relevant measure irrespective of the period for which the original commitment has already been implemented.

2. Member States may allow commitments under Articles 28, 29, 33 and 34 of Regulation (EU) No [...]RD] to be adjusted during the period for which they apply, provided that the approved rural development programme provides the possibility for such adjustment and that the adjustment is duly justified having regard to the achievement of the objectives of the original commitment.

The beneficiary shall fulfil the adjusted commitment for the remainder of the duration of the original commitment.

Adjustments may also take the form of an extension of the duration of the commitment.

*Article 15*  
*Situations where no reimbursement is required*

1. When a beneficiary increases the area of the holding during the period for which a commitment, given as a condition for the grant of support, runs, Member States may provide for the commitment to be extended so as to cover the additional area for the remainder of the period of the commitment, or for the original commitment to be replaced by a new one. The same shall apply in cases where the area covered by a commitment within a holding is increased.
2. A commitment may be extended to cover additional area as referred to in paragraph 1 only under the following conditions:
  - (a) it serves the environmental objective pursued by the commitment;
  - (b) it is justified in terms of the nature of the commitment, the length of the remaining period and the size of the additional area;
  - (c) it does not impede the effectiveness of checks to ensure compliance with the conditions for the grant of support.

The original duration of the commitment shall be respected.

3. A new commitment may be undertaken to replace the existing one as referred to in paragraph 1 on condition that it covers the whole area concerned and that its terms are not less demanding than those of the original commitment.

When the original commitment is replaced by a new one, the new commitment shall be undertaken for the full period specified in the relevant measure irrespective of the period for which the original commitment has already been implemented.

## **CHAPTER III**

### **Transitional provisions**

#### *Article 16* *Eligibility of expenditure*

1. Expenditure relating to legal commitments to beneficiaries, undertaken during the 2007-2013 programming period under the measures referred to in Articles 52 and 63 of Regulation (EC) No 1698/2005, shall be eligible for an EAFRD contribution in the 2014-2020 programming period for the payments to be made:
  - (a) between 1 January 2014 and 31 December 2015, if the financial allocation for the measure concerned of the respective programme adopted pursuant to Regulation (EC) No 1698/2005 has already been used up;
  - (b) after 31 December 2015.
2. The expenditure referred to in paragraph 1 shall be eligible for an EAFRD contribution in the 2014-2020 programming period subject to the following conditions:
  - (a) such expenditure is provided for in the respective rural development programme for the 2014-2020 programming period;
  - (b) the EAFRD contribution rate to the corresponding measure under Regulation (EU) No [...] [RD] as set out in Annex I to this Regulation applies;
  - (c) Member States ensure that the relevant transitional operations are clearly identified through their management and control systems.

#### *Article 17* *Croatia*

1. Expenditure relating to legal commitments to beneficiaries by Croatia, undertaken under the Instrument for Pre-accession Assistance for Rural Development (IPARD) programme, for operations under the measures referred to in Article 171(3)(b) and (4)(a) and (b) of Commission Regulation (EC) No 718/2007<sup>17</sup>, shall be eligible for an EAFRD contribution in the 2014-2020 programming period for the payments to be made:
  - (a) between 1 January 2014 and 31 December 2016, if the financial allocation for the measure concerned of the respective programme adopted pursuant to Regulation (EC) No 718/2007 has already been used up;
  - (b) after 31 December 2016.

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<sup>17</sup> Commission Regulation (EC) No 718/2007 of 12 June 2007 implementing Council Regulation (EC) No 1085/2006 establishing an instrument for pre-accession assistance (IPA) (OJ L 170, 29.6.2007, p. 1).



2. The expenditure referred to in paragraph 1 shall be eligible for an EAFRD contribution in the 2014-2020 programming period subject to the following conditions:
  - (a) such expenditure is provided for in the rural development programme for the 2014-2020 programming period;
  - (b) the EAFRD contribution rate to the corresponding measure under Regulation (EU) No [...] [RD] as set out in Annex II to this Regulation applies;
  - (c) Croatia ensures that the relevant transitional operations are clearly identified through its management and control systems.
3. Expenditure incurred after 31 December 2013 relating to operations necessary for the closure of the IPARD programme and the *ex post* evaluation as referred to in Article 191 of Regulation (EC) No 718/2007 shall be eligible for support under the EAFRD under the technical assistance component of the programme in the 2014-2020 programming period, provided the programme contains a provision for such expenditure.

## **Chapter V**

### **Final provisions**

#### *Article 18* *Repeal*

Regulation (EC) No 1974/2006 is repealed.

It shall continue to apply to operations implemented pursuant to programmes approved by the Commission under Regulation (EC) No 1698/2005 before 1 January 2014.

#### *Article 19*

#### *Entry into force and application*

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

It shall apply from 1 January 2014.

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

Done at Brussels,

*For the Commission*  
*The President*  
*[...]*