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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	General Secretariat of the Council

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 14.7.2022 derogating from Delegated Regulation (EU) 2017/891 for the year 2022 as regards the value of marketed production, the national strategy and the recovery of Union financial assistance for multiannual commitments in the fruit and vegetables sector due to the crisis caused by Russia's invasion of Ukraine

Delegations will find attached document C(2022) 5100 final.

Encl.: C(2022) 5100 final



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COMMISSION DELEGATED REGULATION (EU) .../...

of 14.7.2022

derogating from Delegated Regulation (EU) 2017/891 for the year 2022 as regards the value of marketed production, the national strategy and the recovery of Union financial assistance for multiannual commitments in the fruit and vegetables sector due to the crisis caused by Russia's invasion of Ukraine

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products lays down rules to be followed by the producer organisations in the fruit and vegetables sector. It also empowers the Commission to adopt certain delegated and implementing acts.

Russia's invasion of Ukraine is causing significant disturbances to the fruit and vegetables sector throughout the EU, resulting in financial difficulties and cash-flow problems for farmers in the sector. Consequently, EU measures put in place in 2020 to address the COVID-19 pandemic should be reintroduced in 2022 in order to respond to supply chains disruptions and other logistical problems caused by this invasion.

The Commission therefore proposes to adopt a delegated regulation which allows, for the year 2022, a derogation from some of the provisions set out in Commission Delegated Regulation (EU) 2017/891. The purpose is to facilitate the running of approved operational programmes of recognised producer organisations in the fruit and vegetables sector.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Consultations, involving experts from all 27 Member States, were held within the Expert Group for Agricultural Markets established under Regulation (EU) No 1308/2013, in particular during the meeting of 20 June. During this meeting, the Commission presented its ideas on the scope of the delegated act, and experts exchanged views on the proposal.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This delegated act derogates in the year 2022 from some provisions of Commission Delegated Regulation (EU) 2017/891 on the implementation of approved operational programmes of producer organisations in the fruit and vegetables sector, namely,

- Article 23(4) of Delegated Regulation (EU) 2017/891 on the calculation method to be applied for the value of marketed production;
- Article 27(5) of Delegated Regulation (EU) 2017/891 on the maximum percentages of the operational fund to be used for measures and actions covered by the operational programme; and,
- Article 36(3) of Delegated Regulation (EU) 2017/891 on multiannual commitments.

COMMISSION DELEGATED REGULATION (EU) .../...

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derogating from Delegated Regulation (EU) 2017/891 for the year 2022 as regards the value of marketed production, the national strategy and the recovery of Union financial assistance for multiannual commitments in the fruit and vegetables sector due to the crisis caused by Russia's invasion of Ukraine

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007¹, and in particular Article 37, points (a) and (c), and Article 173(1) thereof,

Whereas:

- (1) Due to the current crisis caused by Russia's invasion of Ukraine on 24 February 2022, which commenced shortly after the COVID-19 crisis, farmers in all Member States are facing exceptional difficulties. Measures should be introduced with a view to responding to extensive movement restrictions, disruption of supply chains and logistic problems that are generated by the invasion. Given the long-term disruption of logistics and supply chains, the severe disturbances in the sector are likely to continue and possibly even deteriorate. Logistical problems have made farmers in the EU vulnerable to the economic disruption caused by this crisis, and they are currently facing financial difficulties and cash-flow problems.
- (2) Recognised producer organisations and associations of producer organisations in the fruit and vegetables sector in all Member States have encountered exceptional difficulties in the planning, management and implementation of operational programmes. This may have the consequence of delaying the implementation of these operational programmes and therefore producer organisations and associations of producer organisations may fail to conform to the requirements laid down in Union legislation for those operational programmes, in particular in Commission Delegated Regulation (EU) 2017/891². Producer organisations are also vulnerable to the disruption and disturbance caused by the Russia's invasion of Ukraine and are experiencing financial difficulties and cash-flow problems caused by a disruption of the supply chains. They are experiencing logistical problems and difficulties in harvesting their produce due to a shortage of workforce and difficulties in reaching consumers due to disruption of the supply chain. This is having a direct impact on the

¹ OJ L 347, 20.12.2013, p. 671.

² Commission Delegated Regulation (EU) 2017/891 of 13 March 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to penalties to be applied in those sectors and amending Commission Implementing Regulation (EU) No 543/2011 (OJ L 138, 25.5.2017, p. 4).

financial stability of producer organisations and on their capacity to implement operational programmes. This is further influencing the ability of producer organisations to introduce measures and actions targeting the effects of this crisis.

- (3) Reductions in the value of marketed production in the fruit and vegetables sector caused by Russia's invasion of Ukraine will have a major impact on the amount of Union aid received by producer organisations in the subsequent year, as the amount of Union aid is to be calculated as a percentage of the value of marketed production of each producer organisation. If substantial loss in the value of marketed production were to occur in 2022 for reasons linked to Russia's invasion of Ukraine, producer organisations would risk losing their recognition as producer organisations, as one of the criteria for such recognition is reaching a certain minimum value of marketed production fixed at a national level. This would put the long-term stability of producer organisations at risk. Therefore, it is appropriate to provide that if a reduction of at least 35 % in the value of a product were to occur in the year 2022 for reasons linked to Russia's invasion of Ukraine and outside the responsibility and control of producer organisations, the value of marketed production for 2022 should be established at 100 % of the value of marketed production for the previous period. In view of the extensive economic impact of Russia's invasion of Ukraine on the fruit and vegetables sector, the threshold of 65 % of the value of marketed production in the previous period, laid down in Article 23(4) of Delegated Regulation (EU) 2017/891, is insufficient to achieve economic and financial stability for the producer organisations concerned by such loss of value of marketed production.
- (4) Member States should also be exempted for the year 2022 from the obligation laid down in Article 27(5) of Delegated Regulation (EU) 2017/891, to set in their national strategies the maximum percentages of the operational fund which may be spent on individual measures or types of action. This should ensure greater flexibility for producer organisations to take measures to address the effects of Russia's invasion of Ukraine in the fruit and vegetables sector.
- (5) In order to ensure the financial stability of producer organisations, Union financial assistance received for multiannual commitments in the fruit and vegetables sector, such as environmental actions, should not be recovered and reimbursed to the European Agricultural Guarantee Fund, as provided for in Article 36(3) of Delegated Regulation (EU) 2017/891, if their long-term objectives could not be realised because of their interruption in the year 2022 for reasons linked to Russia's invasion of Ukraine.
- (6) In view of the necessity to take immediate action, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*. Given that the implementation of operational programmes is based on a calendar year, the derogations relating to the ceiling of Union financial assistance and on the balance of measures set out in the national strategy of Member States provided for in Article 1(1) and (2) of this Regulation should apply retroactively from 1 January 2022,

HAS ADOPTED THIS REGULATION:

Article 1

Derogations from Delegated Regulation (EU) 2017/891 for the year 2022

1. By way of derogation from Article 23(4) of Delegated Regulation (EU) 2017/891, if in the year 2022, a reduction of at least 35 % in the value of a product occurred for

reasons outside the responsibility and control of the producer organisation, the value of marketed production of that product shall be deemed to represent 100 % of its value in the previous reference period. The producer organisation shall prove to the competent authority of the Member State concerned that these conditions are met.

2. By way of derogation from Article 27(5) of Delegated Regulation (EU) 2017/891, the obligation on Member States to set out in the national strategy the maximum percentages of the operational fund which may be spent on any individual measure or type of action in order to ensure a balance between different measures, shall not apply for the year 2022.
3. By way of derogation from Article 36(3) of Delegated Regulation (EU) 2017/891, Union financial assistance for multiannual commitments, such as environmental actions, shall not be recovered and reimbursed to the EAGF where their long-term objectives and expected benefits cannot be realised in the year 2022 because of the interruption of those commitments in the year 2022 for reasons linked to Russia's invasion of Ukraine.

Article 2

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(1) and (2) shall apply from 1 January 2022.

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

Done at Brussels, 14.7.2022

For the Commission

The President

Ursula VON DER LEYEN