



Council of the
European Union

Brussels, 12 March 2024
(OR. en)

7659/24

AGRI 210
AGRILEG 148
AGRIFIN 18
AGRISTR 17
AGRIORG 28
DELACTION 53

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	12 March 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2024) 1488 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 12.3.2024 amending Commission Delegated Regulation (EU) 2022/126 supplementing Regulation (EU) 2021/2115 of the European Parliament and of the Council as regards the rules on the ratio for the good agricultural and environmental condition (GAEC) standard 1

Delegations will find attached document C(2024) 1488 final.

Encl.: C(2024) 1488 final



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

of 12.3.2024

amending Commission Delegated Regulation (EU) 2022/126 supplementing Regulation (EU) 2021/2115 of the European Parliament and of the Council as regards the rules on the ratio for the good agricultural and environmental condition (GAEC) standard 1

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Since 1 January 2023, Member States are implementing their CAP Strategic Plans including the obligation to maintain a ratio of permanent grassland compared to agricultural area as set out as a part of Good Agricultural and Environmental Condition of Land (GAEC) Standard 1 ('GAEC 1') in Annex III to Regulation (EU) 2021/2115. Based on Article 13(3) to the mentioned Regulation, the Commission has laid down rules to ensure a level playing field as regards the ratio for GAEC 1 in Article 48 of Delegated Regulation (EU) 2022/126. This includes rules concerning the establishment of the reference ratio based on the areas declared in 2018, the annual ratio as well as rules on how and when Member States need to ensure the re-establishment of permanent grassland areas in the case of a decrease of the ratio below the threshold laid down in Annex III to Regulation (EU) 2021/2115.

Experience since the start of the implementation of GAEC 1 shows that these rules need to be amended to avoid putting a disproportionate burden on farmers where structural changes to Member State's farming systems caused by market reorientation, such as a shift from livestock production to arable land farming and a reduction in livestock production, substantially impact the ability of farmers to establish permanent grasslands while maintaining their viability.

Experience has also shown that in certain situations, Member States may have to impose obligations on beneficiaries to reconvert areas into permanent grassland or establish areas of permanent grassland, even though the decreases in the annual ratio are due to fluctuations in the declared areas. In particular, it can happen that areas of permanent grassland are registered in the Land Parcel Identification System but are not declared for direct payments by farmers in a given year or that the total agricultural area has increased due to additional declarations by farmers. In such situations, where the decrease of the annual ratio beyond the 5% threshold set out in Annex III to Regulation (EU) 2021/2115, does not result from the conversion of areas of permanent grassland into other agricultural uses, it could be disproportionate to impose on farmers obligations to establish additional areas of permanent grassland.

It is therefore necessary to allow for a certain degree of flexibility while ensuring compliance with the main objective of GAEC 1 to have a "general safeguard against conversion to other agricultural uses to preserve carbon stock" and with the maximum decrease of the ratio set out in Annex III to Regulation (EU) 2021/2115. Delegated Regulation (EU) 2022/126 should therefore be amended.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

A consultation, involving experts from all the 27 Member States, has been carried out within the Expert Group on the implementation of the CAP Strategic Plans established under Regulation (EU) 2021/2115, during the meeting of 19 February 2024. This meeting allowed for a presentation of the context and justifications making the modifications necessary and of the substance of the modifications of Article 48 of Regulation (EU) 2022/126. The presentation was followed by an exchange of views with the experts. The delegated act was refined based on the exchange of views with the experts.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This delegated act amends Article 48 to Regulation (EU) 2022/126 as regards the following elements:

- possibility for Member States to adjust once in the programming period 2023-2027 the 2018 reference ratio to reflect a decrease in the area of permanent grassland where such adjustment is necessary due to structural changes in the farming systems that took place after 2018;
- Possibility for Member States to take into account an increase of the total agricultural area declared in a given year and areas of permanent grasslands that are not declared for direct payments in a given year but are registered in the land parcel identification system as permanent grassland on agricultural area when imposing at the holding level the obligation to reconvert land into permanent grassland or to establish an area of permanent grassland;
- derogation from the obligation to impose at the holding level an obligation to reconvert an area to permanent grassland or to establish an area of permanent grassland for cases where the decreases in the ratio of permanent grassland below the threshold of 5% is not occurring due to conversion of areas of permanent grassland to other agricultural uses, such as arable land or permanent crops.

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

of 12.3.2024

amending Commission Delegated Regulation (EU) 2022/126 supplementing Regulation (EU) 2021/2115 of the European Parliament and of the Council as regards the rules on the ratio for the good agricultural and environmental condition (GAEC) standard 1

THE EUROPEAN COMMISSION,

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

Having regard to 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 1307/2013¹, and in particular Article 13(3) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2022/126 lays down rules on the ratio for the good agricultural and environmental condition (GAEC) standard 1. That standard requires the maintenance of permanent grassland based on a ratio of permanent grassland in relation to agricultural area that is to be compared to the reference year 2018. Where the ratio of permanent grassland in relation to agricultural area has decreased by more than 5% compared to the reference year 2018, the Member State concerned is to impose the obligation to reconvert land into permanent grassland or to establish an area of permanent grassland on some or all of the farmers who have land at their disposal which was converted from permanent grassland into land for other uses.
- (2) In certain Member States, farming systems were affected by structural changes in particular due to a reduction of livestock herds and a decline in the number of farmers specialised in livestock. As a result, the need for livestock fodder has decreased and farmers have shifted their production away from grassland and herbaceous fodder crops towards other crops than those needed to feed livestock. Where such choices have been made, it has become increasingly difficult for farmers to comply with the obligation to establish or re-establish permanent grassland while remaining economically viable. As the shift from livestock to arable land used for the cultivation of other crops than those needed to feed livestock, has been taking place after 2018, the resulting structural changes to the farming systems (and associated difficulties) may have become fully apparent only recently.
- (3) In order to ensure a level playing field between different Member States affected by such structural changes to a different degree, Member States should therefore have the possibility to adjust the reference ratio in the programming period 2023-2027 once, to take into account a decrease in the area of permanent grassland due to structural

¹ OJ L435, 6.12.2021, p. 1.

changes in their farming systems that have taken place as from 2019. With a view to ensuring that such adjustment remains proportionate and in line with the main objective of GAEC standard 1, the adjustment should be limited to the changes in the area of permanent grassland that occurred due to the structural changes in the farming systems of the Member State concerned. To ensure coherence of the assessments of structural changes in the farming systems and the decrease of the area of permanent grassland Member States should base their assessments on the most recent available data. They should use as a basis for their assessments a period of 5 consecutive years, starting no earlier than in 2019.

- (4) While the reference and annual ratios of permanent grassland are determined based on the areas of permanent grassland declared, experience shows that there may be areas of permanent grassland which have not been declared in a given year for direct payments, and are registered as agricultural areas in the Land Parcel Identification System (LPIS) established pursuant to Article 68 of Regulation (EU) 2021/2116². These non-declared areas of permanent grassland, contribute equally to the preservation of carbon stock, which is the main objective of the GAEC standard 1. With a view to the proportionality of the implementation of GAEC standard 1, notably as regards the obligations to reconvert areas into permanent grassland or to establish areas of permanent grassland, Member States should be allowed to decide that those obligations are only imposed at a holding level to the extent that the need for reconversion of land to permanent grassland or establishment of areas of permanent grassland in a given year exceeds the area of permanent grassland registered as agricultural area in the LPIS but not declared for direct payments in that same year. To ensure a correct quantification, only non-declared areas of permanent grassland that remain registered as agricultural areas in the LPIS should be taken into account.
- (5) When farmers have cleared abandoned areas to allow for arable crop production, the total agricultural area may increase, which may lead to a decrease in the annual ratio of permanent grassland beyond the extent of that decrease allowed under GAEC standard 1 as laid down in Annex III to Regulation (EU) 2021/2115. However, since that decrease would not be caused by the conversion of areas of permanent grassland to other uses but by an increase of the total agricultural area, Member States should be allowed to choose to impose at the holding level reconversion obligations or obligations to establish an area of permanent grassland only to the extent that the decrease of the ratio of permanent grassland in a given year by more than 5%, at the level at which GAEC standard 1 is implemented, is not caused by the increase in the total agricultural area.
- (6) Further derogations should be provided from the obligation to impose at the holding level an obligation to reconvert an area to permanent grassland or to establish an area of permanent grassland for cases where the decreases in the ratio of permanent grassland below the threshold of 5% is not occurring due to conversion of areas of permanent grassland to other agricultural uses, such as arable land or permanent crops.
- (7) Delegated Regulation (EU) 2022/126 should therefore be amended accordingly.
- (8) Since the rules laid down in this Regulation determine whether reconversion obligations or obligations to establish an area of permanent grassland must be imposed at the holding level in respect of claim year 2024, it is important to establish these rules as soon as possible to allow for appropriate planning by farmers and

² OJ L435, 6.12.2021, p. 187-261.

consideration by competent authorities. This Regulation should therefore enter into force on the day following that of its publication in the Official Journal of the European Union.

- (9) Considering that the claim year 2024 started on 1 January 2024, Article 1 point (2) and (3), of this Regulation should apply from 1 January 2024, to ensure legal certainty for the farmers and other beneficiaries concerned by GAEC standard 1.

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2022/126

Article 48 of Delegated Regulation (EU) 2022/126 is amended as follows:

- (1) after paragraph 1, the following paragraph is inserted:

“1a. Where the area of permanent grassland referred to in paragraph 1, second subparagraph, point (a), has decreased due to structural changes in the farming systems of a Member State caused by a significant reduction in the production of livestock resulting in a significant reduction in the need for feed and grazing of livestock in that Member State, the Member State concerned may, once in the programming period 2023-2027, adjust the reference ratio established pursuant to paragraph 1 to take into account the decrease in the size of the area of permanent grassland.

The adjustment of the area of permanent grassland referred to in the first subparagraph, shall correspond to the decrease of the area of permanent grassland which is attributable to the structural changes in the farming systems at the level at which the GAEC standard 1 is implemented in the Member State concerned.

A Member State shall assess the decrease in the size of the area of permanent grassland and the structural changes in the farming systems on the basis of a period of 5 consecutive years starting no earlier than in 2019.

- (2) in paragraph 3, the following third subparagraph is added:

“By way of derogation from the first subparagraph, Member States may decide to impose the obligations at the holding level to reconvert land to permanent grassland or to establish an area of permanent grassland only in the following cases:

- (a) where, and to the extent that, the area to be reconverted into areas of permanent grassland or on which permanent grassland is to be established in a given year exceeds the area of permanent grassland registered as agricultural area in the identification system for agricultural parcels referred to in Article 68 of Regulation (EU) 2021/2116 and not declared for the purpose of receiving support in accordance with a type of intervention provided for in Chapter II of Title III of Regulation (EU) 2021/2115 in that year by beneficiaries;
- (b) where, and to the extent that, the decrease of the ratio of permanent grassland in a given year by more than 5%, at the level at which GAEC standard 1 is implemented, is not caused by an increase in the total agricultural area declared in that same year.”

- (3) paragraph 4 is replaced by the following:

“4. Paragraph 3, first subparagraph shall not apply where the decrease below the threshold of 5% is the result of:

- (a) commitments undertaken or obligations, as referred to in Article 4(4), points (b) and (c), of Regulation (EU) 2021/2115 due to which an agricultural activity is no longer performed on the areas in question, and which do not include plantations of Christmas trees or cultivation of crops or trees for energy production; or
- (b) conversion of an area of permanent grassland to other uses than agricultural activity, as defined in the CAP Strategic Plans, and the area concerned no longer constitutes agricultural area as defined in the CAP Strategic Plans.”

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, point (2) and (3) shall apply from 1 January 2024.

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

Done at Brussels, 12.3.2024

For the Commission
The President
Ursula VON DER LEYEN