Regulation (EU) 2020/2220 of the European Parliament and of the Council of 23 December 2020 laying down certain transitional provisions for support from the European Agricultural Fund for Rural Development (EAFRD) and from the European Agricultural Guarantee Fund (EAGF) in the years 2021 and 2022 and amending Regulations (EU) No 1305/2013, (EU) No 1306/2013 and (EU) No 1307/2013 as regards resources and application in the years 2021 and 2022 and Regulation (EU) No 1308/2013 as regards resources and the distribution of such support in respect of the years 2021 and 2022

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of 23 December 2020

laying down certain transitional provisions for support from the European Agricultural Fund for Rural Development (EAFRD) and from the European Agricultural Guarantee Fund (EAGF) in the years 2021 and 2022 and amending Regulations (EU) No 1305/2013, (EU) No 1306/2013 and (EU) No 1307/2013 as regards resources and application in the years 2021 and 2022 and Regulation (EU) No 1308/2013 as regards resources and the distribution of such support in respect of the years 2021 and 2022

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

After consulting the Committee of the Regions,

Having regard to the opinion of the Court of Auditors[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) The Commission's legislative proposals on the common agricultural policy (CAP) beyond 2020 aimed to establish the strong Union framework essential to ensure that the CAP remains a common policy with a level playing field, while also giving Member States greater responsibility as regards how they meet the objectives and achieve the targets set. Accordingly, Member States are to draw up CAP strategic plans and to implement them after their approval by the Commission.

(2) The legislative procedure regarding the Commission's legislative proposals on the CAP beyond 2020 has not been concluded in time to allow Member States and the Commission to prepare all elements necessary to apply the new legal framework

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) 2020/2220 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

and the CAP strategic plans as from 1 January 2021, as initially proposed by the Commission. That delay has created uncertainty and risks for farmers in the Union and the entire Union agriculture sector. In order to alleviate that uncertainty and to maintain the vitality of rural areas and regions, as well as to contribute to environmental sustainability, this Regulation should provide for the continued application of the rules of the current CAP framework covering the period 2014 to 2020 ('current CAP framework') and for uninterrupted payments to farmers and other beneficiaries, and thus provide predictability and stability during the transitional period in the years 2021 and 2022 ('transitional period') until the date of application of the new legal framework covering the period starting on 1 January 2023 ('new legal framework').

(3) Since the legislative procedure regarding the Commission's legislative proposals on CAP beyond 2020 still needs to be concluded and the CAP strategic plans are still to be developed by Member States, and the stakeholders need to be consulted, the current CAP framework should continue to apply for the additional period of two years. The aim of the transitional period is to facilitate a smooth transition for beneficiaries to a new programming period and to provide for the possibility to take into account the Commission's Communication of 11 December 2019 on the European Green Deal ('European Green Deal').

(4) In order to ensure that support can be granted to farmers and other beneficiaries from the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) in the years 2021 and 2022, the Union should continue to grant such support during the transitional period under the conditions of the current CAP framework. The current CAP framework was established, in particular, by Regulations (EU) No 1303/2013[(4)], (EU) No 1305/2013[(5)], (EU) No 1306/2013[(6)], (EU) No 1307/2013[(7)] and (EU) No 1308/2013[(8)] of the European Parliament and of the Council.

(5) This Regulation should provide Member States with sufficient time to prepare their respective CAP strategic plans, as well as facilitate the creation of administrative structures necessary for successful implementation of the new legal framework, in particular by allowing for an increase in technical assistance. All CAP strategic plans should be ready to enter into force once the transitional period ends in order to provide much-needed stability and certainty for the farming sector.

(6) In light of the fact that the Union should continue to support rural development throughout the transitional period, Member States should have the possibility to finance their extended rural development programmes from the corresponding budget allocation for the years 2021 and 2022. The extended programmes should ensure that at least the same overall share of the EAFRD contribution is reserved for the measures referred to in Article 59(6) of Regulation (EU) No 1305/2013, in line with the new ambitions set out in the European Green Deal.

(7) Regulation (EU) No 1303/2013 lays down common rules applicable to the EAFRD and to other funds which operate under a common framework. That Regulation should continue to apply to programmes supported by the EAFRD for the 2014–2020 programming period and programming years 2021 and 2022.

(8) The deadlines laid down in Regulation (EU) No 1303/2013 in respect of implementation reports, annual review meetings, *ex-post* evaluations and synthesis reports, eligibility of expenditure and de-commitment as well as budget commitments are limited to the 2014-2020 programming period. Those deadlines should be adapted in order to take account of the extended duration of the period during which programmes relating to support from the EAFRD should be implemented.

(9) Regulation (EU) No 1310/2013 of the European Parliament and of the Council[(9)] and Commission Delegated Regulation (EU) No 807/2014[(10)] provide that expenditure for certain long-term commitments undertaken pursuant to certain regulations that granted support for rural development before Regulation (EU) No 1305/2013 was applicable, should continue, under certain conditions, to be paid by the EAFRD in the 2014-2020 programming period. That expenditure should also continue to be eligible for the duration of their respective legal commitment under the same conditions in the programming years 2021 and 2022. For reasons of legal clarity and certainty, it should also be made clear that the legal commitments undertaken under earlier measures that correspond to the measures of Regulation (EU) No 1305/2013 to which the integrated administration and control system applies, should be subject to that integrated administration and control system and that payments related to those legal commitments should be made within the period from 1 December to 30 June of the following calendar year.

(10) The EAFRD should be able to support the costs of capacity-building and preparatory actions supporting the design and the future implementation of the community-led local development strategies under the new legal framework.

(11) In 2015, at the allocation of payment entitlements or at the recalculation of payment entitlements for Member States keeping existing entitlements under Regulation (EU) No 1307/2013, some Member States made errors when establishing the number or value of payment entitlements. Many of those errors, even when they occurred in respect of a single farmer, influence the value of the payment entitlements for all farmers and for all years. Some Member States also made errors after 2015, when allocating entitlements from the reserve, for example in the calculation of the average value. Such non-compliance is normally subject to financial correction until corrective measures are taken by the Member State concerned. In the light of the time that has elapsed since the first allocation, the efforts made by Member States to establish, and where relevant, correct entitlements, and also in the interest of legal certainty, the number and value of payment entitlements should be considered legal and regular with effect from a certain date.

(12) Under Article 24(6) of Regulation (EU) No 1307/2013, Member States were given the option to apply for the allocation of payment entitlements a reduction coefficient to eligible hectares consisting of permanent grassland located in areas with difficult climate conditions. Alpine pastures are often managed collectively and therefore areas are assigned on a yearly basis, thus creating a significant degree of uncertainty amongst farmers in the Member States concerned. The implementation of that system has proven to be particularly complex especially with regard to the exact definition of the

areas concerned. Since the value of payment entitlements in areas where the reduction coefficient is not applied depends on the sum of the payment entitlements in the designated areas, that uncertainty subsequently affects all farmers in the Member States concerned. In order to stabilise the system currently applied in those Member States, and with a view to ensuring legal certainty for all farmers in the Member States concerned as early as possible, the Member States concerned should be able to consider legal and regular the value and number of all entitlements allocated to all farmers before 1 January 2020. The value of those entitlements should, without prejudice to any legal remedies open to individual beneficiaries, be the value for calendar year 2019 valid on 31 December 2019.

(13) The confirmation of payment entitlements does not represent an exemption from Member States' responsibility under the shared management of the EAGF to ensure the protection of the Union budget from irregular expenditure. Hence, the confirmation of the payment entitlements allocated to farmers before 1 January 2021 or, by way of derogation, before 1 January 2020, should not prejudice the Commission's power to take decisions referred to in Article 52 of Regulation (EU) No 1306/2013 in relation to irregular payments granted in respect of any calendar year up to 2020 inclusive or, by way of derogation, up to 2019 inclusive, resulting from errors in the number or value of those payment entitlements.

(14) In light of the fact that the new legal framework for the CAP has not yet been adopted, it should be made clear that transitional arrangements should be laid down to regulate the transition from existing support schemes granted on a multiannual basis to the new legal framework.

(15) In order to limit a significant carry-over of commitments from the current programming period for rural development to the CAP strategic plans, the duration of new multiannual commitments in relation to agri-environment-climate, organic farming and animal welfare should, as a general rule, be limited to a period of a maximum of three years. From 2022, the extension of existing commitments should be limited to one year.

(16) Article 31(5) of Regulation (EU) No 1305/2013 provided for transitional arrangements to facilitate the phasing-out of payments in areas that, because of the application of new delimitation criteria, would no longer be considered areas facing natural constraints. Such payments were to be paid until 2020 and for a maximum period of four years. Regulation (EU) 2017/2393 of the European Parliament and of the Council[(11)] extended the initial deadline for the new delimitation of such areas to 2019. For farmers in the Member States setting the delimitation in 2018 and 2019, phasing-out of payments could not reach the maximum of four years. In order to continue the phasing-out of payments, Member States should be allowed to continue paying them in the years 2021 and 2022, where applicable. In order to ensure an adequate level of payments per hectare, in accordance with Article 31(5) of Regulation (EU) No 1305/2013, the level of payments in the years 2021 and 2022 should be fixed at EUR 25 per hectare.

(17) Since farmers are exposed to increasing economic and environmental risks as a consequence of climate change and increased price volatility, Regulation (EU) No 1305/2013 provides for a risk management measure to assist farmers in addressing those

risks. That measure includes financial contributions to mutual funds and an income stabilisation tool. Specific conditions were provided for the granting of support under that measure in order to ensure that farmers receive equal treatment across the Union, competition is not distorted and the international obligations of the Union are complied with. In order to further promote the use of that measure to farmers of all sectors, Member States should be provided with the possibility to reduce the threshold of 30 % that triggers the compensation of farmers for the drop in production or income applicable to the respective tool, however to not lower than 20 %.

(18) Farmers and rural businesses have been affected by the consequences of the COVID-19 outbreak in an unprecedented manner. The prolongation of extensive restrictions on movement put in place in the Member States, as well as mandatory closures of shops, outdoor markets, restaurants and other hospitality establishments, have created economic disruption in the agricultural sector and rural communities and have led to liquidity and cash-flow problems for farmers and for small businesses active in the processing, marketing or development of agricultural products. In order to respond to the impact of the crisis arising from the COVID-19 outbreak, the duration of the measure referred to in Article 39b of Regulation (EU) No 1305/2013 should be extended to address the ongoing liquidity problems that put at risk the continuity of farming activities and of small businesses active in the processing, marketing or development of agricultural products. Support for that measure should be financed by up to 2 % of the EAFRD funds allocated to Member States in the programming period 2014-2020.

(19) In order to avoid a situation in which funds for community-led local development in the programming years 2021 and 2022 are unspent, Member States that make use of the possibility to transfer amounts from direct payments to rural development should be able to apply the 5 %, and in the case of Croatia 2,5 %, minimum allocation for community-led local development only to the EAFRD contribution to the rural development extended to 31 December 2022 calculated before the transfer of amounts from direct payment has been made.

(20) In accordance with Council Regulation (EU) 2020/2094[(12)] establishing a European Union Recovery Instrument ('EURI') to support the recovery in the aftermath of the COVID-19 crisis ('EURI Regulation'), additional resources should be made available for the years 2021 and 2022 to address the impact of the COVID-19 crisis and its consequences for the Union agricultural sector and rural areas.

(21) Given the unprecedented challenges the Union agricultural sector and rural areas are faced with because of the COVID-19 crisis, the additional resources provided by the EURI should be used to fund measures under Regulation (EU) No 1305/2013, paving the way for a resilient, sustainable and digital economic recovery in line with the objectives of the Union's environmental and climate commitments and with the new ambitions set out in the European Green Deal.

(22) Member States should therefore not reduce the environmental ambition of their existing rural development programmes. They should ensure the same overall share for the additional resources as the overall share which they reserved in their rural development programmes for measures that are particularly beneficial for the environment and