COMMISSION IMPLEMENTING REGULATION (EU) 2018/108

of 23 January 2018

on an emergency measure in the form of aid to farmers due to the floods and heavy rainfalls in certain areas of Lithuania, Latvia, Estonia and Finland

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 1234/2007 [1], and in particular Article 221(1) thereof,

Whereas:

(1) Between August and October 2017, Lithuania, Latvia, Estonia and the southern part of Finland experienced heavy rainfalls which resulted in flooding of a significant part of the Member State's arable land. The cumulated rainfall from August to October 2017 has been much higher than average. This abnormal rainfall over a prolonged period is unprecedented. Moreover, an early onset of winter with snowfall and low temperatures made the sowing conditions exceptionally unfavourable. As a consequence, a significant part of the ongoing and upcoming winter sowings for the 2018/2019 marketing year harvest could not take place.

(2) The resulting future loss of income for farmers with holdings in the affected areas, from both hectares inaccessible for sowing and already sown and lost by the heavy floods, will cause a major and extraordinary damage to affected farmers in Lithuania, Latvia, Estonia and Finland in the upcoming 2018/2019 harvest marketing year. This constitutes a specific problem within the meaning of Article 221 of Regulation (EU) No 1308/2013. This specific problem cannot be addressed by measures taken pursuant to Article 219 or 220 of that Regulation since it is not specifically linked to an existing market disturbance or a currently precise threat thereof nor linked to measures for combating the spread of diseases of animals or a loss of consumer confidence due to public, animal or plant health risks.

(3) As an exceptional measure, financial compensation for eligible hectares in the affected areas should be provided for, in order to compensate future economic losses related to the upcoming 2018/2019 harvest marketing year.

(4) From the Union market stability perspective, it is in the interest of the Union that the measure applies only to those farmers who will lose income as a result of the winter sowing area losses. The aid should be limited in addition to farmers most impacted. A farmer should be considered to be most impacted if the percentage of winter sowing areas losses in one Member State amounts to at least 30 percent of his/her total winter sowing areas in that Member State. Moreover, to avoid any risk of overcompensation, the aid per eligible hectare that cannot be used for winter sowing due to flooding should be limited. For this reason, the decision of the Member States concerned on the amount of the aid per eligible hectare should not exceed the average amount of direct payment per hectare in calendar year 2017 in those Member States. The total amount of the aid and the overall budget allocation should be based on information received from the Member States concerned as regards the number of hectares affected by the floods and the heavy rainfalls.

(5) To avoid any risk of double funding, the relevant loss of eligible hectare should not have already been compensated by any kind of national aid or insurance and the aid should be limited to eligible hectares for which no Union financial contribution for the same loss has been received otherwise.

(6) Member States concerned should be allowed to grant additional support under the conditions and within the time limit set by this Regulation.

(7) Aid can only be granted on the basis of an application lodged in accordance with the methods and time limits set by national law in the Member States concerned.

[1] OJ L 347, 20.12.2013, p. 671.

(8) Provision should be made for the competent authorities to take all necessary measures and carry out all checks required and to inform the Commission accordingly. In particular, those checks should include checks as regards the eligibility and the correctness of the application for aid. The number of eligible hectares should be controlled on the basis of all appropriate means available to the competent authorities, including on-farm checks.

(9) The emergency measure should be limited to a maximum period of 12 months starting from the date of entry into force of this Regulation.

(10) For the sake of a sound budgetary management of the measure and of a timely payment to the farmers, only those payments made by the Member States concerned to beneficiaries by 30 September 2018 at the latest should be eligible for Union part-financing. Article 5(2) of Commission Delegated Regulation (EU) No 907/2014 ([1]) should not be applicable.

(11) To allow the Union to monitor the efficiency of this emergency measure, the Member States concerned should communicate to the Commission detailed information on its implementation. To allow the Union to perform its financial control, these Member States should communicate to the Commission the clearance of the payments.

(12) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

1. Union aid shall be available, within the limits of Articles 2 and 5, to farmers for hectares of land situated in Lithuania, Latvia, Estonia and Finland which cannot be used for winter sowing or which already sown for the 2018/2019 marketing year harvest have been lost, due to heavy rainfalls and flooding occurred between August and October 2017 in these Member States provided that:

(a) these hectares of land amount to at least 30 % of a farmer's total winter sowings area in the Member State concerned;

(b) the farmers did not benefit, for the same loss, from any kind of national aid, insurance or aid financed by a Union contribution, other than that provided for by this Regulation.

2. The number of eligible hectares per farmer shall be established by the Member States concerned in accordance with the conditions laid down in paragraph 1.

Article 2

1. Under the conditions laid down in paragraphs 2 and 4, each Member State concerned shall decide on the amount of the aid per eligible hectare.

2. The Union expenditure incurred in accordance with Article 1 shall not exceed a total amount of:

(a) EUR 9 120 000 for Lithuania;

(b) EUR 3 460 000 for Latvia;

(c) EUR 1 340 000 for Estonia;

(d) EUR 1 080 000 for Finland.

([1]) Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro (OJ L 255, 28.8.2014, p. 18).

3. Member States concerned may grant additional support for the eligible hectares as referred to in Article 1(2) of up to a maximum of 100 % of the amount decided in accordance with paragraph 1 of this Article.

Member States concerned shall pay the additional support by 30 September 2018 at the latest.

4. The sum of aid referred to in Article 1 and, if applicable, additional support referred to in paragraph 3 of this Article shall not exceed, for each Member State, the amount of direct payment as calculated by dividing the national envelope set for calendar year 2017 for that Member State in Annex II to Regulation (EU) No 1307/2013 of the European Parliament and of the Council ([1]) by the total number of eligible hectares declared in calendar year 2017 in the Member State concerned in accordance with point (a) of Article 72(1) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council ([2]).

Article 3

Aid referred to in Article 1 shall be paid on the basis of an application lodged by farmers with eligible hectares in accordance with the methods and time limits set by national law in the Member State concerned.

Article 4

Member States concerned shall take all necessary measures, including exhaustive administrative and on-the-spot checks in accordance with Articles 58 and 59 of Regulation (EU) No 1306/2013 to ensure compliance with the conditions laid down in this Regulation. In particular, prior to granting the aid Member States shall carry out:

(a) administrative checks on all aid applications, including:

   (i) the eligibility of the applicant;

   (ii) the number of eligible hectares in accordance with Article 1(2) on the basis of on-farm checks, historical records and the Integrated Administration and Control System in accordance with Commission Implementing Regulation (EU) No 809/2014 ([3]);

   (iii) verifying that funding has not been received by any eligible applicant from any other sources as referred to in Article 1(1)(b) in respect of the same hectares;

(b) on-the-spot checks at the premises of the applicants.

The on-the-spot checks shall cover at least 5 % of the total aid claimed.

Article 5

1. Expenditure in relation to payments under this Regulation shall only be eligible for Union financing if those payments have been made to the beneficiaries by 30 September 2018 at the latest.

2. Article 5(2) of Delegated Regulation (EU) No 907/2014 shall not apply.

Article 6

1. Member States concerned shall notify to the Commission the measures to be taken in accordance with Article 4, not later than 60 days after the date of entry into force of this Regulation.

([1]) 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 73/2009 (OJ L 347, 20.12.2013, p. 608).

([2]) Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549).

([3]) Commission Implementing Regulation (EU) No 809/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance (OJ L 227, 31.7.2014, p. 69).

2. No later than 15 months after the date of entry into force of this Regulation, Member States concerned shall send to the Commission a detailed report on the implementation of this Regulation, including details as regards the execution of the measures taken and checks carried out in accordance with Article 4.

3. Member States concerned shall communicate to the Commission the clearance of payments.

Article 7

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

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

Done at Brussels, 23 January 2018.

For the Commission

The President

Jean-Claude JUNCKER