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Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending certain Directives in the fields of environment, agriculture, social policy and public health by reason of the change of status of Mayotte with regard to the Union

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

By Decision 2012/419/EUⁱ, the European Council amended the status of Mayotte with regard to the Union with effect from 1 January 2014. Therefore, from that date Mayotte will cease to be an overseas territory to become an outermost region within the meaning of Articles 349 and 355(1) TFEU. Union law will apply to Mayotte from 1 January 2014.

The present proposal follows the examination of requests made by the French authorities to have the Union *acquis* amended through derogations and/or transitional periods applicable to Mayotte in different areas, such as environment, agriculture, social policy and public health.

The examination has revealed that France needs additional time to comply with the Union *acquis* with regard to Mayotte in the fields of environment, agriculture, social policy and public health. It is therefore appropriate to provide for corresponding measures, limited to reflecting the particular situation of Mayotte, without affecting Union law otherwise.

In the interest of simplicity and speediness, it has been considered expedient not to resort to individual proposals for each of the acts concerned but, where legally possible, to bundle the amendments to several acts in a single proposal. The amendments proposed in the present document relate all to Directives and fall under the ordinary legislative procedure (Articles 289(1) and 294 TFEU).

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

The Commission has not used an impact assessment. However, when examining the various issues and in particular the requests made by France, it had contacts with representatives of national and regional authorities in order to better evaluate the grounds of the specific measures.

3. LEGAL ELEMENTS OF THE PROPOSAL

In accordance with Article 153(2) TFUE, the European Parliament and the Council are empowered to adopt, by means of directives, minimum requirements for gradual implementation of working conditions having regard to the conditions and technical rules in each of the Member States. Under this legal basis, it is proposed to amend Directive 2006/25/EC of the European Parliament and of the Council of 5 April 2006 with a view to granting a derogation to France, until 31 December 2017, from certain provisions in the field of artificial optical radiation. The proposed derogation only applies insofar as the structures necessary to comply with these provisions are not available in Mayotte, and without prejudice to the general principles of protection and prevention in the area of health and safety of workers. It is also proposed that France must ensure proper consultation of the social partners and limit risks for workers to a minimum.

Pursuant to Article 192(1) TFUE, the European Parliament and the Council shall decide what action is to be taken by the Union in order to achieve the objectives on the environment referred to in Article 191. The current situation prevailing in Mayotte calls for considerable improvement in order to comply with environmental objectives set forth by Union law. It is

ⁱ OL L 204, 31.7.2012, p.131.

therefore proposed to amend, on the basis of Article 192(1) TFEU, three Directives in the area of environment:

- Council Directive 91/271/EEC of 21 May 1991 in order to grant France the sufficient periods of time for meeting the requirements of the Directives concerning urban waste water treatment;
- Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 in order to grant France the sufficient periods of time for the adoption and proper implementation of river basin management plans;
- Directive 2006/7/EC of the European Parliament and of the Council of 15 February 2006 in order to define specific time limits to allow France to reach the Union standards as regards bathing water quality.

In accordance with Article 43(2) TFEU, the European Parliament and the Council are empowered to adopt, inter alia, provisions necessary for the pursuit of the objectives of the common agricultural policy. On the basis of this provision, it is proposed to amend Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens. Since laying hens are reared in Mayotte in unenriched cages and since it would be difficult to change this position in the short term, France should be granted sufficient time to adapt. Even though almost 100% of the egg production is sold in Mayotte, measures should be taken in order to prevent any distortion of competition.

Finally, pursuant to Article 114 TFEU, the European Parliament and the Council shall adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market. On the other hand, in accordance with Article 168 TFEU the European Parliament and the Council may also adopt incentive measures designed to protect and improve human health. Under these legal bases, it is proposed to amend Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare, given the current situation in Mayotte and the number of adaptations required to be carried out to transpose the Directive in order to ensure continuity of care and information to patients.

4. BUDGETARY IMPLICATION

The proposal has no impact on the budget of the European Union.

5. OPTIONAL ELEMENTS

It has been considered that no explanatory documents need to be requested for the following reasons:

(1) This proposal for a Directive essentially contains:

- (a) Amendments to introduce derogations and/or transitional periods related to the application in Mayotte of the Directives concerned, and
- (b) A very limited number of obligations for France in this respect.

(2) The derogations and/or transitional periods granted are based on requests submitted by France, in which it has motivated the need of such derogations and/or transitional periods and has indicated an implementation plan.

Therefore, the Commission does not need explanatory documents to carry out its task of overseeing the transposition of Directives. The individual transposition measures to be notified by France can be expected to be self-explanatory.

Proposal for a

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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), Article 114, Article 153(2), Article 168 and Article 192(1) 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 Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) By Decision 2012/419/EU³, the European Council decided to amend the status of Mayotte with regard to the European Union with effect from 1 January 2014. Therefore, from that date Mayotte will cease to be an overseas territory and become an outermost region within the meaning of Articles 349 and 355(1) of the Treaty. Union law will apply to Mayotte as from that date. It is appropriate to provide for certain specific measures justified by the particular situation of Mayotte in a number of areas.
- (2) It is appropriate to take account of the particular situation in Mayotte as regards the state of the environment, which calls for considerable improvement in order to comply with environmental objectives set forth by Union law, for which additional time is needed. Specific measures in order to gradually improve the environment should be adopted within specific time limits.
- (3) In order to comply with the requirements of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment⁴, measures need to be taken in Mayotte to ensure that agglomerations are provided with collecting systems for urban waste water. Such measures call for infrastructure works that should follow appropriate administrative and planning procedures and furthermore require the establishment of systems for measuring and monitoring urban waste water discharges. Therefore, a sufficient period of time needs to be granted to France for meeting those requirements.
- (4) In the field of agriculture, as regards Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens⁵ it is noted that, in

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ L 204, 31.7.2012, p. 131.

⁴ OJ L 135, 30.5.1991, p. 1.

⁵ OJ L 203, 3.8.1999, p. 53.

Mayotte, laying hens are reared in unenriched cages. In view of the considerable investment and preparatory work required for replacing unenriched cages by enriched cages or alternative systems, it is necessary, in respect of laying hens in lay on 1 January 2014, to postpone the prohibition of using unenriched cages for a period of up to 12 months from that date. Replacement of the cages during the laying cycle of the hens should thereby be avoided. In order to prevent distortions of competition, eggs derived from establishments using unenriched cages should be marketed only on the local market of Mayotte. In order to facilitate the necessary controls, eggs produced in unenriched cages should bear a special mark.

- (5) In respect of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy⁶, the proper implementation of the Directive as regards river basin management plans requires that France adopt and implement management plans containing technical and administrative measures to achieve good water status for, and to prevent the deterioration of all bodies of surface waters. A sufficient period of time needs to be granted for the adoption and implementation of such measures.
- (6) In respect of Directive 2006/7/EC of the European Parliament and of the Council of 15 February 2006 concerning the management of bathing water quality and repealing Directive 76/160/EEC⁷, the current state of surface waters in Mayotte calls for considerable improvement in order to comply with the requirements of that Directive. The quality of bathing waters depends directly upon urban waste water treatment, and the provisions of Directive 2006/7/EC may only be complied with progressively once agglomerations that affect the quality of urban waste waters comply with the requirements of Directive 91/271/EEC. Therefore, specific time limits need to be adopted in order allow France to reach the Union standards as regards bathing water quality in Mayotte.
- (7) In the area of social policy, account should be taken of the difficulties to comply with Directive 2006/25/EC of the European Parliament and of the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation)⁸ in Mayotte as from 1 January 2014. There are no technical facilities available in Mayotte for the implementation of measures necessary to comply with that Directive in the field of artificial optical radiation. Therefore, it is possible to grant a derogation to France from certain provisions of that Directive until 31 December 2017, provided that those structures are not available in Mayotte and without prejudice to the general principles of protection and prevention in the area of health and safety of workers.
- (8) In order to guarantee a high level of protection of the health and safety of workers at work, the consultation with the social partners should be ensured, the risks resulting from the derogation should be reduced to a minimum and the workers concerned should benefit from reinforced health surveillance. It is important to reduce the duration of the derogation as much as possible. Therefore, the national derogating measures should be reviewed every year and withdrawn as soon as the circumstances justifying them no longer subsist.

⁶ OJ L 327, 22.12.2000, p. 1.

⁷ OJ L 64, 4.3.2006, p. 37.

⁸ OJ L 114, 27.4.2006, p. 38.

- (9) In respect of Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare⁹, its transposition requires a number of adaptations to ensure continuity of care and information to patients. It is therefore appropriate to grant France an additional period of 30 months from 1 January 2014 to bring into force the provisions necessary to comply with that directive in respect of Mayotte.
- (10) Directives 91/271/EEC, 1999/74/EC, 2000/60/EC, 2006/7/EC, 2006/25/EC and 2011/24/EU should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1
Amendments to Directive 91/271/EC

Directive 91/271/EC is amended as follows:

- (1) In Article 3, the following paragraph 1a is inserted:
- '(1a) By way of derogation from the first and second sentences of paragraph 1, in respect of Mayotte France shall ensure that all agglomerations are provided with collecting systems for urban waste water:
- by 31 December 2020 at the latest for agglomerations of more than 10 000 p.e., which will cover at least 70% of the load generated in Mayotte;
- by 31 December 2027 at the latest for all agglomerations.'
- (2) In Article 4, the following paragraph 1a is inserted:
- '(1a) By way of derogation from paragraph 1, in respect of Mayotte France shall ensure that urban waste water entering collecting systems are, before discharge, subject to secondary treatment or an equivalent treatment:
- by 31 December 2020 at the latest for agglomerations of more than 15 000 p.e. which, along with those agglomerations referred to in Article 5 (2a), will cover at least 70% of the load generated in Mayotte;
- by 31 December 2027 at the latest for all agglomerations. '
- (3) Article 5 is amended as follows:
- (a) The following paragraph 2a is inserted:
- '(2a) By way of derogation from paragraph 2, in respect of Mayotte France shall ensure that urban waste water entering collecting systems shall before discharge into sensitive areas be subject to more stringent treatment than that described in Article 4:
- by 31 December 2020 at the latest for agglomerations of more than 10 000 p.e. which, along with those agglomerations referred to in Article 4(1a), will cover at least 70% of the load generated in Mayotte;

⁹ OJ L 88, 4.4.2011, p. 45.

- by 31 December 2027 at the latest for all agglomerations.'

(4) Article 17 is amended as follows:

(a) In paragraph 1, the following subparagraph is added:

'By way of derogation from the first subparagraph, in respect of Mayotte France shall establish a programme for the implementation of this Directive by 30 June 2014.'

(b) In paragraph 2, the following subparagraph is added:

'By way of derogation from the first subparagraph, in respect of Mayotte France shall provide the Commission with information on the programme by 31 December 2014.'

Article 2 *Amendment to Directive 1999/74/EC*

In Article 5 of Directive 1999/74/EC, the following paragraph 3 is added:

'3. By way of derogation from paragraph 2, in Mayotte, laying hens in lay on 1 January 2014 and reared at that date in cages as referred to in this Chapter may continue to be reared in such cages until 31 December 2014.

From 1 January 2014, no cages as referred to in this Chapter may be built or brought into service for the first time in Mayotte.

Eggs derived from establishments rearing laying hens in cages as referred to in this Chapter shall only be placed on the local market of Mayotte. Those eggs and their packs shall be clearly identified with a special mark, allowing for the necessary controls. A clear description of this special mark shall be communicated to the Commission by 1 January 2014.'

Article 3 *Amendments to Directive 2000/60/EC*

Directive 2000/60/EC is amended as follows:

(1) Article 4 is amended as follows:

(a) in paragraph 1, the following subparagraph is added:

'As regards Mayotte, the time limit referred to in points (a)(ii), (a)(iii), (b)(ii) and (c) shall be 22 December 2021.'

(b) in paragraph 4, the introductory sentence is replaced by the following:

'The time limits established under paragraph 1 may be extended for the purposes of phased achievement of the objectives for bodies of water, provided that no further deterioration occurs in the status of the affected body of water when all the following conditions are met: '

- (2) Article 11 is amended as follows:
- (a) in paragraph 7, the following subparagraph is added:
'As regards Mayotte, the time limits referred to in the first subparagraph shall be 22 December 2015 and 22 December 2018 respectively.'
 - (b) in paragraph 8, the following subparagraph is added:
'As regards Mayotte, the time limit referred to in the first subparagraph shall be 22 December 2021.'
- (3) Article 13 is amended as follows:
- (a) in paragraph 6, the following subparagraph is added:
'As regards Mayotte, the time limit referred to in the first subparagraph shall be 22 December 2015.'
 - (b) in paragraph 7, the following subparagraph is added:
'As regards Mayotte, the time limit referred to in the first subparagraph shall be 22 December 2021.'

Article 4
Amendments to Directive 2006/7/EC

Directive 2006/7/EC is amended as follows:

- (1) Article 5 is amended as follows:
- (a) in paragraph 2, the following subparagraph is added:
'As regards Mayotte, the time limit referred to in the first subparagraph shall be 31 December 2019.'
 - (b) in paragraph 3, the following subparagraph is added:
'As regards Mayotte, the time limit referred to in the first subparagraph shall be 31 December 2031.'
- (2) In Article 6(1), the following subparagraph is added:
'As regards Mayotte, the time limit referred to in the first subparagraph shall be 30 June 2015.'
- (3) In Article 13(2), the following subparagraph is added:
'As regards Mayotte, the time limit referred to in the first subparagraph shall be 30 June 2014.'

Article 5
Amendment to Directive 2006/25/EC

In Directive 2006/25/EC, the following Article 14a is inserted:

‘Article 14a

1. Without prejudice to with the general principles of protection and prevention in the area of health and safety of workers, France may until 31 December 2017 derogate from the application of the provisions necessary to comply with this Directive in Mayotte provided that such application requires specific technical facilities and that such facilities are not available in Mayotte.

The first subparagraph does not apply to the obligations in Article 5(1) of this Directive as well as to those provisions of this Directive which reflect the general principles set out in Directive 89/391/EEC.
2. All derogations from this Directive resulting from the application of measures existing on 1 January 2014 or from the adoption of new measures shall be preceded by a consultation with the social partners in accordance with national laws and practice. Such derogations shall be applied under conditions which guarantee, taking into account the particular circumstances prevailing in Mayotte, that the resulting risks for workers are reduced to a minimum and that the workers concerned benefit from reinforced health surveillance.
3. The national derogating measures shall be reviewed every year, after consultation with the social partners, and shall be withdrawn as soon as the circumstances justifying them no longer subsist.’

Article 6
Amendment to Directive 2011/24/EU

In Article 21 of Directive 2011/24/EU, the following paragraph 3 is added:

‘3. By way of derogation from the first sentence of paragraph 1, France shall bring into force the laws, regulations and administrative provisions necessary to comply with this directive in respect of Mayotte by 30 June 2016.’

Article 7
Transposition

1. France shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive as follows:
 - (a) in respect of Article 1(1), (2) and (3), by 31 December 2018;
 - (b) in respect of Article 1(4), by the dates referred to in points (a) and (b) thereof respectively;

- (c) in respect of Article 2, by 1 January 2014;
- (d) in respect of Article 3(1), by 31 December 2018;
- (e) in respect of Article 3(2) and (3), by the dates referred to therein;
- (f) in respect of Article 4(1)(a), by 31 December 2018;
- (g) in respect of Article 4(1)(b), by 30 June 2021;
- (h) in respect of Article 4(2) and (3), by the dates referred to therein;
- (i) in respect of Article 5, by 1 January 2014, unless France does not make use of the possibility foreseen in that Article;
- (j) in respect of Article 6, by the date referred to therein.

France shall forthwith communicate to the Commission the text of those provisions.

When France adopts those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. France shall determine how such reference is to be made.

2. France shall communicate to the Commission the text of the main provisions of national law which it adopts in the field covered by this Directive.

Article 8
Entry into force

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

Article 9
Addressee

This Directive is addressed to the French Republic.

Done at Brussels,

For the European Parliament
The President

For the Council
The President