

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

TITLE V

CONTROL SYSTEMS AND PENALTIES

CHAPTER I

General rules

Article 58

Protection of the financial interests of the Union

1 Member States shall, within the framework of the CAP, adopt all legislative, regulatory and administrative provisions and take any other measures necessary to ensure effective protection of the financial interests of the Union, in particular to:

- a check the legality and regularity of operations financed by the Funds;
- b ensure effective prevention against fraud, especially in areas with a higher level of risk, and which will act as a deterrent, having regard to the costs and benefits as well as the proportionality of the measures;
- c prevent, detect and correct irregularities and fraud;
- d impose penalties which are effective, dissuasive and proportionate in accordance with Union law, or failing this, national law, and bring legal proceedings to that effect, as necessary;
- e recover undue payments plus interest, and bring legal proceedings to that effect as necessary.

2 Member States shall set up efficient management and control systems in order to ensure compliance with the legislation governing Union support schemes aimed at minimising the risk of financial damage to the Union.

3 Member States shall inform the Commission of the provisions adopted and measures taken under paragraphs 1 and 2.

Any conditions established by Member States to supplement the conditions laid down by Union rules for receiving support financed by the EAGF or the EAFRD shall be verifiable.

4 The Commission may adopt implementing acts, laying down rules necessary for the uniform application of this Article relating to the following:

- a the procedures, deadlines, exchange of information in relation to the obligations as set out in paragraphs 1 and 2;
- b the notification and communication to be made by the Member States to the Commission in relation to the obligation set out in paragraph 3.

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Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Article 59

General principles of checks

1 Except where otherwise provided, the system set up by the Member States in accordance with Article 58(2) shall include systematic administrative checking of all aid applications and payment claims. That system shall be supplemented by on-the-spot checks.

2 As regards the on-the-spot checks, the authority responsible shall draw its check sample from the entire population of applicants comprising, where appropriate, a random part in order to obtain a representative error rate and a risk-based part, which shall target the areas where the risk of errors is the highest.

3 The authority responsible shall draw up a report on each on-the-spot check.

4 Where appropriate, all on-the-spot checks provided for in Union rules regarding agricultural aid and rural development support shall be carried out at the same time.

5 Member States shall ensure a minimum level of on-the-spot checks needed for an effective management of the risks, and shall increase that minimum level where necessary. Member States may reduce that minimum level where the management and control systems function properly and the error rates remain at an acceptable level.

6 In cases to be provided for by the Commission on the basis of point (h) of Article 62(2), aid applications and payment claims or any other communications, claims or requests may be corrected and adjusted after their submission in cases of obvious errors recognised by the competent authority.

7 An aid application or payment claim shall be rejected if the beneficiary or his representative prevents an on-the-spot check from being carried out, except in cases of force majeure or in exceptional circumstances.

Article 60

Circumvention clause

Without prejudice to specific provisions, no advantage provided for under sectoral agricultural legislation shall be granted in favour of a natural or legal person in respect of whom it is established that the conditions required for obtaining such advantages were created artificially, contrary to the objectives of that legislation.

Article 61

Compatibility of support schemes for the purposes of checks in the wine sector

For the purposes of applying the support schemes in the wine sector as referred to in Regulation (EU) No 1308/2013, Member States shall ensure that the administration and control procedures applied to those schemes are compatible with the integrated system referred to in Chapter II of this Title as regards the following elements:

(a) the computerised database;

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- (b) the identification systems for agricultural parcels;
- (c) the administrative checks.

The procedures shall allow a common functioning or the exchange of data with the integrated system.

Article 62

Commission powers as regards checks

1 In order to ensure that the checks are carried out correctly and efficiently and that the eligibility conditions are verified in an efficient, coherent and non-discriminatory manner which protects the financial interest of the Union, the Commission shall be empowered to adopt delegated acts in accordance with Article 115, laying down, where the proper management of the system so requires, additional requirements with respect to customs procedures, and in particular to those laid down in Regulation (EC) No 952/2013 of the European Parliament and of the Council⁽¹⁾.

2 The Commission shall adopt implementing acts, laying down rules necessary for the uniform application of this Chapter, and in particular:

- a rules on administrative and on-the-spot checks to be conducted by the Member States with regard to the respect of obligations, commitments and eligibility criteria resulting from the application of Union law;
- b rules on the minimum level of on-the-spot checks and on the obligation to increase it or the possibility of reducing it as set out in Article 59(5);
- c the rules and methods applicable to the reporting of the checks and verifications carried out and their results;
- d the authorities responsible for performing the checks for compliance as well as to the content, the frequency and the marketing stage to which those checks are to apply;
- e with regard to hemp as referred to in Article 52 of Regulation (EU) No 1307/2013, rules on the specific control measures and methods for determining tetrahydrocannabinol levels;
- f with regard to cotton as referred to in Article 56 of Regulation (EU) No 1307/2013, a system for checks of the approved interbranch organisations;
- g with regard to wine as referred to in Regulation (EU) No 1308/2013, rules on the measurement of areas, on checks and on rules governing the specific financial procedures for the improvement of checks;
- h the cases in which aid applications and payments claims or any other communications, claims or requests may be corrected and adjusted after their submission, as referred to in Article 59(6);
- i the tests and methods to be applied in order to establish the eligibility of products for public intervention and private storage, as well as the use of tendering procedures, both for public intervention and for private storage.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

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Article 63

Undue payments and administrative penalties

1 Where it is found that a beneficiary does not comply with the eligibility criteria, commitments or other obligations relating to the conditions for the granting of the aid or support, as provided for in the sectoral agricultural legislation, the aid shall not be paid or shall be withdrawn in full or in part and, where relevant, the corresponding payment entitlements as referred to in Article 21 of Regulation (EU) No 1307/2013 shall not be allocated or shall be withdrawn.

2 Moreover, where sectoral agricultural legislation so provides, Member States shall also impose administrative penalties, in accordance with the rules laid down in Article 64 and Article 77. This shall be without prejudice to the provisions set out in Articles 91 to 101 of Title VI.

3 Without prejudice to Article 54(3), the amounts, including interest thereon, and payment entitlements, concerned by the withdrawal referred to in paragraph 1 and by the penalties referred to in paragraph 2 shall be recovered.

4 The Commission shall adopt delegated acts in accordance with Article 115 laying down the conditions for the partial or total withdrawal referred to in paragraph 1.

5 The Commission shall adopt implementing acts laying down detailed procedural and technical rules on:

- a the application and calculation of the partial or total withdrawal referred to in paragraph 1;
- b the recovery of undue payments and penalties as well as in respect of unduly allocated payment entitlements and the application of interest.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Article 64

Application of administrative penalties

1 As regards the administrative penalties referred to in Article 63(2), this Article shall apply in cases of non-compliance in relation to eligibility criteria, commitments or other obligations resulting from the application of sectoral agricultural legislation, with the exception of those referred to in Articles 67 to 78 of Chapter II of this Title and in Articles 91 to 101 of Title VI and of those subject to the penalties provided for in Article 89(3) and 89(4).

2 No administrative penalties shall be imposed:

- a where the non-compliance is due to force majeure;
- b where the non-compliance is due to obvious errors as referred to in Article 59(6);
- c where the non-compliance is due to an error of the competent authority or another authority, and where the error could not reasonably have been detected by the person concerned by the administrative penalty;
- d where the person concerned can demonstrate to the satisfaction of the competent authority that he or she is not at fault for the non-compliance with the obligations

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- referred to in paragraph 1 or if the competent authority is otherwise satisfied that the person concerned is not at fault;
- e where the non-compliance is of a minor nature, including where expressed in the form of a threshold, to be set by the Commission in accordance with point (b) of paragraph 7;
 - f other cases in which the imposition of a penalty is not appropriate, to be defined by the Commission in accordance with point (b) of paragraph 6.
- 3 Administrative penalties may be imposed on the beneficiary of the aid or support and on other natural or legal persons, including groups or associations of such beneficiaries or other persons, bound by the obligations laid down in the rules referred to in paragraph 1.
- 4 The administrative penalties may take one of the following forms:
- a a reduction in the amount of aid or support to be paid in relation to the aid application or payment claim affected by the non-compliance or further applications; however as regards rural development support, this shall be without prejudice to the possibility of suspending the support where it can be expected that the non-compliance can be addressed by the beneficiary within a reasonable time;
 - b payment of an amount calculated on the basis of the quantity and/or the period concerned by the non-compliance;
 - c suspension or withdrawal of an approval, recognition or authorisation;
 - d exclusion from the right to participate in or benefit from the aid scheme or support measure or other measure concerned;
- 5 The administrative penalties shall be proportionate and graduated according to the severity, extent, duration and reoccurrence of the non-compliance found, and shall respect the following limits:
- a the amount of the administrative penalty as referred to in point (a) of paragraph 4 shall not exceed 200 % of the amount of the aid application or payment claim;
 - b notwithstanding point (a), as regards rural development, the amount of the administrative penalty, as referred to in point (a) of paragraph 4, shall not exceed 100 % of the eligible amount;
 - c the amount of the administrative penalty, as referred to in point (b) of paragraph 4, shall not exceed an amount comparable to the percentage referred to in point (a) of this paragraph;
 - d the suspension, withdrawal or exclusion referred to in points (c) and (d) of paragraph 4 may be set at a maximum of three consecutive years which may be renewed in the case of any new non-compliance.
- 6 In order to take account of the deterrent effect of charges and penalties to be imposed on the one hand, and the special characteristics of each aid scheme or support measure covered by sectoral agricultural legislation on the other hand, the Commission shall be empowered to adopt delegated acts in accordance with Article 115:
- a identifying, for each aid scheme or support measure and person concerned as referred to in paragraph 3, from the list set out in paragraph 4 and within the limits laid down in paragraph 5, the administrative penalty and determining the specific rate to be imposed by Member States including in cases of non-quantifiable non-compliance;
 - b identifying the cases in which the administrative penalties are not to be imposed, as referred to in point (f) of paragraph 2.
- 7 The Commission shall adopt implementing acts, laying down detailed procedural and technical rules for the uniform application of this Article on:
- a the application and calculation of the administrative penalties;

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- b the detailed rules for identifying a non-compliance as minor, including the setting of a quantitative threshold expressed as a nominal value or a percentage of the eligible amount of aid or support, which as regards rural development support shall not be less than 3 % and which as regards all other aid or support shall not be less than 1 %;
- c the rules identifying the cases in which, due to the nature of the penalties, Member States may retain the penalties recovered.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Article 65

Suspension of payments to the Member States in specific cases covered by Regulation (EU) No 1308/2013

1 Where Regulation (EU) No 1308/2013 requires Member States to submit, within a set period, specific information and the Member States fail to send that information within that period or at all, or send incorrect information, the Commission may suspend the monthly payments referred to in Article 18 provided that the Commission has made available to the Member States in good time the information, forms and explanations needed. The amount to be suspended shall relate to the expenditure for the market measures for which the required information was not sent or was not sent in time or is incorrect.

2 In order to ensure the respect of the proportionality principle when applying paragraph 1, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 concerning the market measures falling under the suspension and the rate and period of suspension of payments referred to in paragraph 1.

3 The Commission shall adopt implementing acts laying down detailed rules on the procedure and other practical arrangements for the proper functioning of the suspension of monthly payments referred to in the paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Article 66

Securities

1 The Member States shall, when the sectoral agricultural legislation so provides, request the lodging of a security giving the assurance that a sum of money will be paid or forfeited to a competent authority if a particular obligation under sectoral agricultural legislation is not fulfilled.

2 Except in cases of force majeure, the security shall be forfeited in whole or in part where the execution of a particular obligation is not carried out, or is carried out only partially.

3 The Commission shall be empowered to adopt delegated acts in accordance with Article 115 laying down rules which ensure a non discriminatory treatment, equity and the respect of proportionality when lodging a security, and:

- a specifying the responsible party in the event that an obligation is not met;
- b laying down the specific situations in which the competent authority may waive the requirement of a security;
- c laying down the conditions applying to the security to be lodged and the guarantor and the conditions for lodging and releasing that security;

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- d laying down the specific conditions related to the security lodged in connection with advance payments;
 - e setting out the consequences of breaching the obligations for which a security has been lodged, as provided for in paragraph 1, including the forfeiting of securities, the rate of reduction to be applied on release of securities for refunds, licences, offers, tenders or specific applications and when an obligation covered by that security has not been met either wholly or in part, taking into account the nature of the obligation, the quantity for which the obligation has been breached, the period exceeding the time limit by which the obligation should have been met and the time by which evidence that the obligation has been met is produced.
- 4 The Commission may adopt implementing acts laying down rules on:
- a the form of the security to be lodged and the procedure for lodging the security, for accepting it, and for replacing the original security;
 - b the procedures for the release of a security;
 - c the notifications to be made by Member States and by the Commission.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

CHAPTER II

Integrated Administration and Control System

Article 67

Scope and terms used

1 Each Member State shall set up and operate an integrated administration and control system (the 'integrated system').

2 The integrated system shall apply to the support schemes listed in Annex I of Regulation (EU) No 1307/2013 and to the support granted in accordance with points (a) and (b) of Article 21(1) and Articles 28 to 31, 33, 34 and 40 of Regulation 1305/2013 and where applicable points (b) and (c) of Article 35(1) of Regulation (EU) 1303/2013.

This Chapter shall not, however, apply to measures referred to in Article 28(9) of Regulation (EU) No 1305/2013. Nor shall it apply to, measures under points (a) and (b) of Article 21(1) of that Regulation as far as the establishment cost is concerned.

3 To the extent necessary, the integrated system shall also apply to the control of cross-compliance as laid down in Title VI.

4 For the purpose of this Chapter:

- a "agricultural parcel" means a continuous area of land, declared by one farmer, which does not cover more than one single crop group; however, where a separate declaration of the use of an area within a crop group is required in the context of Regulation (EU) No 1307/2013, that specific use shall if necessary further limit the agricultural parcel; Member States may lay down additional criteria for further delimitation of an agricultural parcel;
- b "area-related direct payment" means the basic payment scheme; the single area payment scheme and the redistributive payment referred to in Chapter 1 of Title III of Regulation

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(EU) No 1307/2013; the payment for agricultural practices beneficial for the climate and the environment referred to in Chapter 3 of Title III of Regulation (EU) No 1307/2013; the payment for areas with natural constraints referred to in Chapter 4 of Title III of Regulation (EU) No 1307/2013; the payment for young farmers referred to in Chapter 5 of Title III of Regulation (EU) No 1307/2013; the voluntary coupled support referred to in Chapter 1 of Title IV, where the support is paid per hectare; the crop specific payment for cotton referred to in Chapter 2 of Title IV; the small farmers scheme as referred to in Title V of Regulation (EU) No 1307/2013; specific measures for agriculture in the outermost regions of the Union as referred to in Chapter IV of Regulation (EU) No 228/2013 of the European Parliament and of the Council⁽²⁾, where support is paid per hectare; and specific measures for agriculture in favour of the smaller Aegean islands as referred to in Chapter IV of Regulation (EU) No 229/2013 of the European Parliament and of the Council⁽³⁾, where the support is paid per hectare.

Article 68

Elements of the integrated system

- 1 The integrated system shall comprise the following elements:
 - a a computerised database;
 - b an identification system for agricultural parcels;
 - c a system for the identification and registration of payment entitlements;
 - d aid applications and payment claims;
 - e an integrated control system;
 - f a single system to record the identity of each beneficiary of the support referred to in Article 67(2) who submits an aid application or a payment claim.
- 2 Where applicable, the integrated system shall include a system, set up in accordance with Regulation (EC) No 1760/2000 of the European Parliament and of the Council⁽⁴⁾ and Council Regulation (EC) No 21/2004⁽⁵⁾ for the identification and registration of animals.
- 3 Without prejudice to the responsibilities of the Member States for the implementation and application of the integrated system, the Commission may seek the assistance of specialised bodies or persons in order to facilitate the establishment, monitoring and operation of the integrated system, in particular, with a view to providing the competent authorities of the Member States with technical advice, should they request it.
- 4 Member States shall take all further measures required for the proper application of the integrated system and shall give one another the mutual assistance needed for the purposes of the checks required under this Regulation.

Article 69

Computerised database

- 1 The computerised database ("the database") shall record, for each beneficiary of the support referred to in Article 67(2), the data obtained from aid applications and payment claims.

The database shall, in particular, allow consultation through the competent authority of the Member State, of the data relating to the current calendar and/or marketing years and to the previous ten such years. Where the support level of farmers is affected by the data relating to earlier calendar and/or marketing years, starting with 2000, the

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database shall also allow consultation of the data relating to those years. The database shall also allow direct and immediate consultation of the data relating to at least the previous four consecutive calendar years and for data related to "permanent pasture" as defined in point (c) of Article 2 of Commission Regulation (EC) No 1120/2009⁽⁶⁾ in its original version and, for periods as from its date of application, "permanent grassland and permanent pasture" as defined in point (h) of Article 4(1) of Regulation (EU) No 1307/2013, relating to at least the previous five consecutive calendar years.

By way of derogation from the second subparagraph, the Member States which acceded to the Union in or after 2004, shall only be required to ensure consultation of the data as from the year of their accession.

2 Member States may set up decentralised databases on condition that these, and the administrative procedures for recording and accessing data, are designed to be homogeneous throughout the territory of the Member State and are compatible with one another in order to allow for cross-checks.

Article 70

Identification system for agricultural parcels

1 The identification system for agricultural parcels shall be established on the basis of maps, land registry documents or other cartographic references. Use shall be made of computerised geographical information system techniques, including aerial or spatial orthoimagery, with a homogenous standard that guarantees a level of accuracy that is at least equivalent to that of cartography at a scale of 1:10 000 and, as from 2016, at a scale of 1:5 000, while taking into account the outline and condition of the parcel. This shall be fixed in accordance with existing Union standards.

Notwithstanding the first subparagraph, Member States may continue to make use of such techniques including aerial or spatial orthoimagery, with a homogenous standard that guarantees a level of accuracy that is at least equivalent to that of cartography at a scale of 1:10 000 where they were acquired on the basis of long-term contracts that were agreed before November 2012.

2 Member States shall ensure that the identification system for agricultural parcels contains a reference layer to accommodate ecological focus areas. That reference layer shall, in particular, cover the relevant specific commitments and/or environmental certification schemes referred to in Article 43(3) of Regulation (EU) No 1307/2013 that are equivalent to the practices in Article 46 of that Regulation before the application forms referred to in Article 72 of this Regulation for payments for agricultural practices beneficial for the climate and the environment referred to in Articles 43 to 46 of Regulation (EU) No 1307/2013 are provided in respect of claim year 2018 at the latest.

Article 71

System for the identification and registration of payment entitlements

1 The system for the identification and registration of payment entitlements shall allow for verification of the entitlements and for cross-checks with the aid applications and the identification system for agricultural parcels.

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2 The system referred to in paragraph 1 shall allow direct and immediate consultation, through the competent authority of the Member State, of the data relating to at least the previous four consecutive calendar years.

Article 72

Aid applications and payment claims

1 Each year, a beneficiary of the support referred to in Article 67(2) shall submit an application for direct payments or a payment claim for the relevant area and animal-related rural development measures respectively indicating, where applicable:

- a all the agricultural parcels on the holding, as well as the non-agricultural area for which support referred to in Article 67(2) is claimed;
- b the payment entitlements declared for activation;
- c any other information provided for in this Regulation or required with a view to the implementation of the relevant sectoral agricultural legislation or by the Member State concerned.

As regards the area-related direct payment, each Member State shall determine the minimum size of agricultural parcels in respect of which an application may be made. However, the minimum size shall not exceed 0,3 ha.

2 By way of derogation from point (a) of paragraph 1, Member States may decide that agricultural parcels of an area of up to 0,1 ha on which an application for payment is not made, do not need to be declared, provided that the sum of such parcels does not exceed 1 ha, and/or may decide that a farmer who does not apply for any area-based direct payment does not have to declare his agricultural parcels in the case where the total area does not exceed 1 ha. In all cases, the farmer shall, indicate in his application that he has agricultural parcels at his disposal and at the request of the competent authorities, shall indicate their location.

3 Member States shall provide, inter alia through electronic means, pre-established forms based on the areas determined in the previous year as well as graphic material indicating the location of those areas.

A Member State may decide that the aid application and the payment claim:

- a are valid if the beneficiary confirms the absence of changes with respect to the aid application and the payment claim submitted the previous year,
- b need to contain only changes with respect to the aid application and the payment claim submitted for the previous year.

However, with regard to the small farmers scheme provided for in Title V of Regulation (EU) No 1307/2013, that possibility shall be given to all farmers concerned.

4 A Member State may decide that a single application shall cover a number of or all support schemes and measures referred to in Article 67 or other support schemes and measures.

5 By way of derogation from Council Regulation (EEC, Euratom) No 1182/71⁽⁷⁾, the calculation of the date for the submission or the amendment of an aid application, of a payment claim or of any supporting documents, contracts or declarations under this Chapter shall be adapted to the specific requirements of the integrated system. The Commission shall be empowered to adopt delegated acts in accordance with Article 115 concerning rules applicable to periods, dates and time limits where the final date for submission of applications or amendments is a public holiday, a Saturday or a Sunday.

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Article 73

System for the identification of beneficiaries

The single system for recording the identity of each beneficiary of the support as referred to in Article 67(2) shall guarantee that all aid applications and payment claims submitted by the same beneficiary can be identified as such.

Article 74

Verification of eligibility conditions and reductions

1 In accordance with Article 59, Member States, through the paying agencies or the bodies delegated by them, shall carry out administrative checks on the aid application to verify the eligibility conditions for the aid. Those checks shall be supplemented by on-the-spot checks.

2 For the purpose of on-the-spot checks Member States shall draw up a sampling plan of agricultural holdings and/or beneficiaries.

3 Member States may use remote sensing and Global Navigation Satellite System (GNSS) techniques as a means of carrying out on-the-spot checks on agricultural parcels.

4 In the case of non-compliance with the eligibility conditions Article 63 shall apply.

Article 75

Payment to beneficiaries

1 The payments under the support schemes and the measures referred to in Article 67(2) shall be made within the period from 1 December to 30 June of the following calendar year.

Payments shall be made in a maximum of two instalments within that period.

Notwithstanding the first and second subparagraphs, Member States may, prior to 1 December but not before 16 October, pay advances of up to 50 % for direct payments and of up to 75 % for the support granted under rural development as referred to in Article 67(2).

With regard to support granted under rural development, as referred to in Article 67(2), this paragraph shall apply in respect of the aid applications or payment claims submitted from claim year 2018, except as regards the payment of advances of up to 75 % provided for in the third subparagraph of this paragraph.

2 Payments referred to in the paragraph 1 shall not be made before the verification of eligibility conditions, to be carried out by the Member States pursuant to Article 74, has been finalised.

By way of derogation from the first subparagraph, advances for support granted under rural development as referred to in Article 67(2) may be paid after the administrative checks pursuant to Article 59(1) have been finalised.

3 In the event of an emergency, the Commission shall adopt implementing acts which are both necessary and justifiable, in order to resolve specific problems in relation to the application

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of this Article. Such implementing acts may derogate from paragraphs 1 and 2, but only to the extent that, and for such a period, as is strictly necessary.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Article 76

Delegated powers

1 In order to ensure that the integrated system provided for in this Chapter is implemented in an efficient, coherent and non-discriminatory way which protects the financial interests of the Union, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 concerning:

- a specific definitions needed to ensure a harmonised implementation of the integrated system, in addition to those provided for in Regulation (EU) No 1307/2013 and Regulation (EU) No 1305/2013;
- b with regards to Articles 67 to 75, rules on further measures necessary to ensure the compliance with control requirements laid down in this Regulation or in sectoral agricultural legislation to be taken by the Member States in respect of producers, services, bodies, organisations or other operators, such as slaughterhouses or associations involved in the procedure for the granting of the aid, where this Regulation does not provide for relevant administrative penalties; such measures shall as far as possible, follow, *mutatis mutandis*, the provisions on penalties set out in paragraphs (1) to (5) of Article 77.

2 In order to ensure a correct distribution of the funds resulting from the aid applications provided for in Article 72 to the entitled beneficiaries and to allow for verification of the fulfilment by them of the obligations related thereto, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 concerning:

- a the basic features, technical rules, including, for the update of reference parcels, appropriate tolerance margins taking into account the outline and condition of the parcel, and including rules on the inclusion of landscape features located adjacent to a parcel, and quality requirements for the identification system for agricultural parcels provided for in Article 70 and for the identification of the beneficiaries as provided for in Article 73;
- b the basic features, technical rules and quality requirements of the system for the identification and registration of payment entitlements provided for in Article 71;
- c the rules to establish the definition of the basis for the calculation of aid, including rules on how to deal with certain cases in which eligible areas contain landscape features or trees; such rules shall allow Member States for areas under permanent grassland to consider scattered landscape features and trees, the total area of which does not exceed a certain percentage of the reference parcel, to be automatically part of the eligible area without a requirement to map them for that purpose.

Article 77

Application of administrative penalties

1 As regards the administrative penalties referred to in Article 63(2), this Article shall apply in the case of non-compliance with relation to eligibility criteria, commitments or other obligations resulting from the application of the rules on support referred to in Article 67(2).

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Changes to legislation: Regulation (EU) No 1306/2013 of the European Parliament and of the Council, TITLE V is up to date with all changes known to be in force on or before 11 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 2 No administrative penalty shall be imposed:
 - a where the non-compliance is due to force majeure;
 - b where the non-compliance is due to obvious errors as referred to in Article 59(6);
 - c where the non-compliance is due to an error of the competent authority or another authority, and where the error could not reasonably have been detected by the person concerned by the administrative penalty;
 - d where the person concerned can demonstrate to the satisfaction of the competent authority that he or she is not at fault for the non-compliance with the obligations referred to in paragraph 1 or if the competent authority is otherwise satisfied that the person concerned is not at fault;
 - e where the non-compliance is of a minor nature, including where expressed in the form of a threshold, to be set by the Commission in accordance with point (b) of paragraph 7;
 - f other cases in which the imposition of a penalty is not appropriate, to be defined by the Commission in accordance with point (b) of paragraph 7.
- 3 Administrative penalties may be imposed on the beneficiary of the aid or support, including groups or associations thereof, bound by the obligations laid down in the rules referred to in paragraph 1.
- 4 The administrative penalties may take the following forms:
 - a a reduction in the amount of aid or support paid or to be paid in relation to the aid applications or payment claims affected by the non-compliance and/or in relation to aid applications or payment claims for previous or subsequent years;
 - b payment of an amount calculated on the basis of the quantity and/or the period concerned by the non-compliance;
 - c exclusion from the right to participate in the aid scheme or support measure concerned.
- 5 The administrative penalties shall be proportionate and graduated according to the severity, extent, duration and reoccurrence of the non-compliance found and shall respect the following limits:
 - a the amount of the administrative penalty for a given year, as referred to in point (a) of paragraph 4, shall not exceed 100 % of the amounts of the aid applications or payment claims;
 - b the amount of the administrative penalty for a given year, as referred to in point (b) of paragraph 4, shall not exceed 100 % of the amount of the aid applications or payment claims to which the penalty is applied;
 - c the exclusion referred to in point (c) of paragraph 4 may be set at a maximum of three consecutive years, which may apply again in the case of any new non-compliance.
- 6 Notwithstanding paragraphs 4 and 5, as regards the payment referred to in Chapter 3 of Title III of Regulation (EU) No 1307/2013, administrative penalties shall take the form of a reduction in the amount of payments made or to be made under that Regulation.

The administrative penalties referred to in this paragraph shall be proportionate and graduated according to the severity, extent, duration and reoccurrence of the non-compliance concerned.

The amount of such administrative penalties for a given year shall not exceed 0 % for the first two years of application of Chapter 3 of Title III of Regulation (EU) No 1307/2013 (claim years 2015 and 2016), 20 % for the third year of application (claim year 2017) and 25 % starting with the fourth year of application (claim year 2018), of the amount of the payment referred to in Chapter 3 of Title III of Regulation (EU) No 1307/2013

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to which the farmer concerned would be entitled if the farmer met the conditions for that payment.

7 In order to take account of the deterrent effect of penalties to be imposed on the one hand, and the specific characteristics of each aid scheme or support measure referred to in Article 67(2) on the other, the Commission shall be empowered to adopt delegated acts in accordance with Article 115:

- a identifying, for each aid scheme or support measure and person concerned as referred to in paragraph 3 from the list set out in paragraph 4 and within the limits laid down in paragraphs 5 and 6, the administrative penalty and determining the specific rate to be imposed by Member States, including in cases of non-quantifiable non-compliance;
- b identifying, the cases in which the administrative penalties are not to be imposed, as referred to in point (f) of paragraph 2.

8 The Commission shall adopt implementing acts, laying down detailed procedural and technical rules for the uniform application of this Article on:

- a rules on the application and calculation of the administrative penalties;
- b the detailed rules for identifying a non-compliance as minor, including the setting of a quantitative threshold expressed as a nominal value or a percentage of the eligible amount of aid or support which shall not be less than 0,5 %.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Article 78

Implementing powers

The Commission shall adopt implementing acts laying down the following:

- (a) the basic features, technical rules and quality requirements for the computerised database provided for in Article 69;
- (b) rules on the aid applications and payments claims provided for in Article 72, and applications for payment entitlements, including the final date for submission of applications, the requirements as to the minimum amount of information to be included in applications, provisions for amendments to or the withdrawal of aid applications, exemption from the requirement to submit aid applications and provisions which allow Member States to apply simplified procedures or to correct obvious errors;
- (c) rules on the carrying out of checks in order to verify compliance with obligations, and the correctness and completeness of the information provided in the aid application or payment claim, including rules on measurement tolerances for on-the-spot checks;
- (d) technical specifications needed for the purpose of the uniform implementation of this Chapter;
- (e) rules on situations of transfer of holdings accompanied by the transfer of any obligation concerning eligibility in respect of the aid in question which still needs to be fulfilled;
- (f) rules on the payment of the advances referred to in Article 75.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

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CHAPTER III

Scrutiny of transactions

Article 79

Scope and definitions

1 This Chapter lays down specific rules on the scrutiny of the commercial documents of those entities receiving or making payments relating directly or indirectly to the system of financing by the EAGF, or their representatives ('undertakings') in order to ascertain whether transactions forming part of the system of financing by the EAGF have actually been carried out and have been executed correctly.

2 This Chapter shall not apply to measures covered by the integrated system referred to in Chapter II of this Title. In order to respond to changes in sectoral agricultural legislation and to ensure the efficiency of the system of ex-post controls established by this Chapter, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 establishing a list of measures which, due to their design and control requirements, are unsuited for additional ex-post controls by way of scrutiny of commercial documents and, therefore, are not to be subject to such scrutiny under this Chapter.

3 For the purposes of this Chapter the following definitions shall apply:

- a "commercial document" means all books, registers, vouchers and supporting documents, accounts, production and quality records, and correspondence relating to the undertaking's business activity, as well as commercial data, in whatever form they may take, including electronically stored data, in so far as these documents or data relate directly or indirectly to the transactions referred to in paragraph 1;
- b "third party" means any natural or legal person directly or indirectly connected with transactions carried out within the financing system by the EAGF.

Article 80

Scrutiny by Member States

1 Member States shall carry out systematic scrutiny of the commercial documents of undertakings taking account of the nature of the transactions to be scrutinised. Member States shall ensure that the selection of undertakings for scrutiny gives the best possible assurance of the effectiveness of the measures for preventing and detecting irregularities. The selection shall take account, inter alia, of the financial importance of the undertakings in that system and of other risk factors.

2 In appropriate cases, the scrutiny provided for in paragraph 1 shall be extended to natural and legal persons with whom undertakings are associated and to such other natural or legal persons as may be relevant for the pursuit of the objectives set out in Article 81.

3 The scrutiny carried out pursuant to this Chapter shall not prejudice the checks undertaken pursuant to Articles 47 and 48.

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Article 81

Objectives of the scrutiny

1 The accuracy of primary data under scrutiny shall be verified by a number of cross-checks, including, where necessary, the commercial documents of third parties, appropriate to the degree of risk presented, including:

- a comparisons with the commercial documents of suppliers, customers, carriers and other third parties;
- b physical checks, where appropriate, upon the quantity and nature of stocks;
- c comparison with the records of financial flows leading to or consequent upon the transactions carried out within the financing system by the EAGF; and
- d checks, in relation to bookkeeping, or records of financial movements showing, at the time of the scrutiny, that the documents held by the paying agency by way of justification for the payment of aid to the beneficiary are accurate.

2 In particular, where undertakings are required to keep particular book records of stock in accordance with Union or national provisions, scrutiny of those records shall, in appropriate cases, include a comparison with the commercial documents and, where appropriate, with the actual quantities in stock.

3 In the selection of transactions to be checked, full account shall be taken of the degree of risk presented.

Article 82

Access to commercial documents

1 The persons responsible for the undertaking, or a third party, shall ensure that all commercial documents and additional information are supplied to the officials responsible for the scrutiny or to the persons authorised to carry it out on their behalf. Electronically stored data shall be provided on an appropriate data support medium.

2 The officials responsible for the scrutiny or the persons authorised to carry it out on their behalf may require that extracts or copies of the documents referred to in paragraph 1 be supplied to them.

3 Where, during scrutiny carried out pursuant to this Chapter, the commercial documents maintained by the undertaking are considered inadequate for scrutiny purposes, the undertaking shall be directed to maintain in future such records as are required by the Member State responsible for the scrutiny, without prejudice to obligations laid down in other Regulations relating to the sector concerned.

Member States shall determine the date from which such records are to be established.

Where some or all of the commercial documents required to be scrutinised pursuant to this Chapter are located with an undertaking in the same commercial group, partnership or association of undertakings managed on a unified basis as the undertaking scrutinised, whether located inside or outside the territory of the Union, the undertaking shall make those commercial documents available to officials responsible for the scrutiny, at a place and time to be determined by the Member States responsible for carrying out the scrutiny.

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4 Member States shall ensure that officials responsible for scrutiny are entitled to seize commercial documents, or have them seized. This right shall be exercised with due regard to the relevant national provisions and shall be without prejudice to the application of rules governing proceedings in criminal matters concerning the seizure of documents.

Article 83

Mutual assistance

1 Member States shall assist each other for the purposes of carrying out the scrutiny provided for in this Chapter in the following cases:

- a where an undertaking or third party is established in a Member State other than that in which payment of the amount in question has or should have been made or received;
- b where an undertaking or third party is established in a Member State other than that in which the documents and information required for scrutiny are to be found.

The Commission may coordinate joint actions involving mutual assistance between two or more Member States.

2 During the first three months following the EAGF financial year of payment, Member States shall send the Commission a list of undertakings established in a third country for which payment of the amount in question has or should have been made or received in that Member State.

3 If additional information is required in another Member State as part of the scrutiny of an undertaking in accordance with Article 80, and in particular cross-checks in accordance with Article 81, specific scrutiny requests may be made indicating the reasons for the request. An overview of such specific requests shall be sent to the Commission on a quarterly basis within one month after the end of each quarter. The Commission may require that a copy of individual requests be provided.

The scrutiny request shall be fulfilled not later than six months after its receipt; the results of the scrutiny shall be communicated without delay to the requesting Member State and to the Commission. The communication to the Commission shall be on a quarterly basis within one month after the end of each quarter.

Article 84

Programming

1 Member States shall draw up programmes for scrutiny to be carried out pursuant to Article 80 during the subsequent scrutiny period.

2 Each year, before 15 April, Member States shall send the Commission their programme as referred to in paragraph 1 and shall specify:

- a the number of undertakings to be scrutinised and their breakdown by sector on the basis of the amounts relating to them;
- b the criteria adopted for drawing up the programme.

3 The programmes established by the Member States and forwarded to the Commission shall be implemented by the Member States, if, within eight weeks, the Commission has not made known its comments.

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4 Paragraph 3 shall apply mutatis mutandis to the amendments to the programme made by the Member States.

5 At any stage, the Commission may request the inclusion of a particular category of undertaking in the programme of a Member States.

6 Undertakings for which the sum of the receipts or payments amounted to less than EUR 40 000 shall be scrutinised in accordance with this Chapter only for specific reasons to be indicated by the Member States in their annual programme referred to in paragraph 1 or by the Commission in any proposed amendment to that programme. In order to take account of economic developments, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 modifying the threshold of EUR 40 000.

Article 85

Special departments

1 In each Member State, a special department shall be responsible for monitoring the application of this Chapter. Those departments shall, in particular, be responsible for:

- a the performance of the scrutiny provided for in this Chapter by officials employed directly by that special department; or
- b the coordination and general surveillance of the scrutiny carried out by officials belonging to other departments.

Member States may also provide that scrutiny to be carried out pursuant to this Chapter is allocated between the special departments and other national departments, provided that the former is responsible for its coordination.

2 The department or departments responsible for the application of this Chapter shall be organised in such a way as to be independent of the departments or branches of departments responsible for the payments and the scrutiny checks carried out prior to payment.

3 In order to ensure that this Chapter is properly applied, the special department referred to in paragraph 1 shall take all the measures necessary, and it shall be entrusted by the Member State concerned with all the powers necessary, to perform the tasks referred to in this Chapter.

4 Member States shall adopt appropriate measures to penalise natural or legal persons who fail to fulfil their obligations under this Chapter.

Article 86

Reports

1 Before 1 January, following the scrutiny period, Member States shall send the Commission a detailed report on the application of this Chapter.

2 The Member States and the Commission shall have regular exchanges of views on the application of this Chapter.

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Article 87

Access to information and scrutiny by the Commission

1 In accordance with the relevant national laws, Commission officials shall have access to all documents prepared either with a view to or following the scrutiny organised under this Chapter and to the data held, including those stored in the data-processing systems. That data shall be provided upon request on an appropriate data support medium.

2 The scrutiny referred to in Article 80 shall be carried out by the officials of the Member States. Officials of the Commission may participate in that scrutiny. They may not themselves exercise the powers of scrutiny accorded to national officials. However, they shall have access to the same premises and to the same documents as the officials of the Member States.

3 In the case of scrutiny taking place under Article 83, officials of the requesting Member State may be present, with the agreement of the requested Member State, at the scrutiny in the requested Member State and have access to the same premises and the same documents as the officials of that Member State.

Officials of the requesting Member State present at scrutiny in the requested Member State shall at all time be able to furnish proof of their official capacity. The scrutiny shall at all times be carried out by officials of the requested Member State.

4 Without prejudice to the provisions of Regulations (EU, Euratom) 883/2013 and (Euratom, EC) No 2185/96, where national provisions concerning criminal procedure reserve certain acts for officials specifically designated by the national law, neither the officials of the Commission, nor the officials of the Member State referred to in paragraph 3, shall take part in these acts. In any event, they shall, in particular not take part in home visits or the formal interrogation of persons in the context of the criminal law of the Member State concerned. They shall, however, have access to information thus obtained.

Article 88

Commission powers

The Commission shall, where necessary, adopt implementing acts laying down rules for the uniform application of this Chapter and in particular relating to the following:

- (a) the performance of the scrutiny referred to in Article 80 as regards the selection of undertakings, rate and the calendar for the scrutiny;
- (b) the conservation of commercial documents and the types of documents to maintain or data to record;
- (c) the performance and coordination of joint actions referred to in Article 83(1);
- (d) the details and specifications regarding the content, form and means of submission of requests, the content, form and means of notification, submission and exchange of information required in the framework of this Chapter;
- (e) conditions and means of publication or specific rules and conditions for the diffusion or making available by the Commission to the competent authorities of the Member States of the information needed in the framework of this Regulation;

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- (f) the responsibilities of the special department referred to in Article 85;
- (g) the content of reports referred to in Article 86.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

CHAPTER IV

Other provisions on checks and penalties

Article 89

Other checks and penalties related to marketing rules

1 Member States shall take measures to ensure that the products referred to in Article 119(1) of Regulation (EU) No 1308/2013 which are not labelled in conformity with the provisions of that Regulation are not placed on, or are withdrawn from, the market.

2 Without prejudice to any specific provisions which may be adopted by the Commission, imports into the Union of the products specified in points (a) and (b) of paragraph 1 of Article 189 of Regulation (EU) No 1308/2013 shall be subject to checks to determine whether the conditions provided for in paragraph 1 of that Article are met.

3 Member States shall carry out checks, based on a risk analysis, in order to verify whether products referred to in Annex I to Regulation (EU) No 1308/2013 conform to the rules laid down in Section I of Chapter I of Title II of Part II of Regulation (EU) No .../2013 and shall apply administrative penalties as appropriate.

4 Without prejudice to acts regarding the wine sector adopted on the basis of Article 64, in the event of infringement of Union rules in the wine sector, Member States shall apply proportionate, effective and dissuasive administrative penalties. Such penalties shall not apply in the cases set out in points (a) to (d) of Article 64(2) and where the non-compliance is of a minor nature.

5 In order to protect Union funds and the identity, provenance and quality of Union wine, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 relating to:

- a the establishment of an analytical databank of isotopic data to help detect fraud to be constructed on the basis of samples collected by Member States;
- b rules on control bodies and the mutual assistance between them;
- c rules on the common use of the findings of Member States;

6 The Commission may adopt implementing acts laying down all measures necessary for:

- a the procedures relating to Member States' own databanks and to the analytical databank of isotopic data that will help detect fraud;
- b the procedures relating to cooperation and assistance between control authorities and bodies;
- c as regards the obligation referred to in paragraph 3, rules for performing the checks of compliance with marketing standards, rules on the authorities responsible for performing the checks, as well as on the content, the frequency and the marketing stage to which those checks are to apply.

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Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Article 90

Checks related to designation of origin and geographical indications and protected traditional terms

1 Member States shall take the necessary steps to stop unlawful use of protected designations of origin, protected geographical indication and protected traditional terms referred to in Regulation (EU) No 1308/2013.

2 Member State shall designate the competent authority responsible for carrying out the checks in respect of the obligations laid down in Section II of Chapter I of Title II of Part 2 of Regulation (EU) No 1308/2013 in accordance with the criteria laid down in Article 4 of Regulation (EC) No 882/2004 of the European Parliament and of the Council⁽⁸⁾ and shall ensure that any operator complying with those obligations is entitled to be covered by a system of checks.

3 Within the Union, annual verification of compliance with the product specification, during the production and during or after conditioning of the wine shall be ensured by the competent authority referred to in paragraph 2 or by one or more control bodies within the meaning of point 5 of the second subparagraph of Article 2 of Regulation (EC) No 882/2004 operating as a product certification body in accordance with the criteria laid down in Article 5 of that Regulation.

4 The Commission shall, adopt implementing acts concerning the following:

- a the communications to be made by the Member States to the Commission;
- b rules on the authority responsible for the verification of compliance with the product specification, including where the geographical area is in a third country;
- c the actions to be implemented by the Member States to prevent the unlawful use of protected designations of origin, protected geographical indications and protected traditional terms;
- d the checks and verification to be carried out by the Member States, including testing.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

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- (1) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ([OJ L 269, 10.10.2013, p. 1](#)).
- (2) Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 ([OJ L 78, 20.3.2013, p. 23](#)).
- (3) Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 ([OJ L 78, 20.3.2013, p. 41](#)).
- (4) Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 ([OJ L 204, 11.8.2000, p. 1](#)).
- (5) Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC ([OJ L 5, 9.1.2004, p. 8](#)).
- (6) Commission Regulation (EC) No 1120/2009 of 29 October 2009 laying down detailed rules for the implementation of the single payment scheme provided for in Title III of Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers ([OJ L 316, 2.12.2009, p. 1](#)).
- (7) Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits ([OJ L 124, 8.6.1971, p. 1](#)).
- (8) Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules ([OJ L 165, 30.4.2004, p. 1](#)).

Status:

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Changes to legislation:

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