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COUNCIL REGULATION (EU) No 1370/2013

of 16 December 2013

determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products

(OJ L 346, 20.12.2013, p. 12)

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► <u>M2</u>	Council Regulation (EU) 2016/1042 of 24 June 2016	L 170	1	29.6.2016

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► **C1** Corrigendum, OJ L 130, 19.5.2016, p. 43 (1370/2013)

**COUNCIL REGULATION (EU) No 1370/2013****of 16 December 2013****determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled ‘The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future’ sets out potential challenges, objectives and orientations for the Common Agricultural Policy (‘the CAP’) after 2013. In the light of the debate on that Communication, the CAP should be reformed with effect from 1 January 2014. That reform should cover all the main instruments of the CAP, including Council Regulation (EC) No 1234/2007⁽¹⁾. In the context of the reformed regulatory framework, measures on fixing prices, levies, aid and quantitative limitations should be taken.
- (2) For the sake of clarity and transparency, the provisions on public intervention should be made subject to a common structure, whilst maintaining the policy pursued in each sector. For that purpose, it is appropriate to distinguish between reference thresholds laid down in Regulation (EU) No 1308/2013 of the European Parliament and of the Council⁽²⁾ on the one hand and intervention prices on the other hand, and to define the latter. Only intervention prices for public intervention correspond to the applied administered prices referred to in the first sentence of paragraph 8 of Annex 3 to the WTO Agreement on Agriculture (i.e. market price support). In this context, it should be understood that market intervention can take the form of public intervention as well as other forms of intervention that do not use ex ante established price indications.
- (3) The level of the public intervention price at which buying-in is carried out at a fixed price or under a tendering procedure should be provided for, including the cases for which an adjustment of

⁽¹⁾ Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).

⁽²⁾ 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 1037/01 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

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the public intervention prices may be necessary. Equally, measures on quantitative limitations for carrying out the buying-in at a fixed price need to be taken. In both cases, the prices and quantitative limitation should reflect the practice and experience acquired under previous common market organisations.

- (4) Regulation (EU) No 1308/2013 provides for the granting of aid for private storage as a market intervention measure. Measures on the fixing of the aid amounts need to be provided for. In view of the practice and experience acquired under previous common market organisations, it is appropriate to provide for the fixing of the aid amounts both in advance and by a tendering procedure, and for certain elements to be taken into account when the aid is fixed in advance.
- (5) In order to ensure a sound budgetary management of the school fruit and vegetables scheme, a fixed ceiling of Union aid and maximum co-financing rates should be provided for. In order to allow all Member States to implement a cost-effective school fruit and vegetables scheme, a specified minimum amount of Union aid should be set.
- (6) To ensure the proper functioning of the aid for the supply of milk and milk products to children in educational establishments and to ensure flexibility in the administration of such a scheme, a maximum quantity of milk eligible for aid, as well as the amount of Union aid, should be fixed.
- (7) Pursuant to Regulation (EU) No 1308/2013, several measures in the sugar sector will expire at the end of the 2016/2017 marketing year for sugar when the system of quotas is abolished.
- (8) Measures on the fixing of the production charge to be levied on the sugar quota, isoglucose quota and inulin syrup quota provided for in the sugar sector should be provided for in this Regulation in line with the prolongation of the quota system until 30 September 2017.
- (9) To ensure an efficient production refund system for certain products of the sugar sector, appropriate conditions should be laid down to fix the amount of the production refund.
- (10) A minimum price should be fixed for quota beet corresponding to a standard quality which should be defined, in order to ensure a fair standard of living for the Union growers of sugar beet and sugar cane.
- (11) To avoid a threat to the sugar market situation due to the accumulation of quantities of sugar, isoglucose and inulin syrup for which the applicable conditions are not met, provision should be made for a surplus levy.

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- (12) A mechanism to ensure a sufficient and balanced supply of sugar to the Union markets has been set up in Regulation (EU) No 1308/2013, allowing the Commission to take the appropriate measures to achieve this. As the market management instruments putting this mechanism into practice are the temporary adjustments of the import duty payable on imported raw sugar as well as the temporary application of a levy on out of quota production released onto the internal market for the purposes of adjusting supply to demand, a specific provision enabling the Commission to apply such a levy and to fix its amount should be included in this Regulation.
- (13) To ensure the proper functioning of the export refund system, appropriate measures should be provided for to fix the amount of the refunds. In addition, in the cereals and rice sectors, appropriate measures should be set to fix the corrective amounts and to provide for the adjustment of the refund amount in line with any changes in the level of the intervention price.
- (14) To ensure an efficient day-to-day management of the CAP, the measures on fixing aid, refunds and prices set out in this Regulation should be limited to the broad conditions allowing concrete amounts to be laid down in the specific circumstances of each case. In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to lay down those amounts. Those implementing powers should be exercised with the assistance of the Committee for the Common Organisation of the Agricultural Markets and in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽¹⁾. Furthermore, to ensure a swift response to fast changing market situations, the Commission should be empowered to fix new refund levels and, in the cereals and rice sectors, to adapt the corrective amount without applying Regulation (EU) No 182/2011,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

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This Regulation provides for measures on fixing prices, levies, aid and quantitative limitations related to the common organisation of agricultural markets established by Regulation (EU) No 1308/2013.

⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

▼B*Article 2***Public intervention prices**

1. The level of the public intervention price:
 - (a) for common wheat, durum wheat, barley, maize, paddy rice and skimmed milk powder shall be equal to the respective reference threshold set out in Article 7 of Regulation (EU) No 1308/2013 in the case of buying-in at a fixed price and shall not exceed the respective reference threshold in the case of buying-in by tendering;
 - (b) for butter shall be equal to 90 % of the reference threshold set out in Article 7 of Regulation (EU) No 1308/2013 in the case of buying-in at a fixed price and shall not exceed 90 % of that reference threshold in the case of buying-in by tendering;
 - (c) for beef and veal shall not exceed the level referred to in point (c) of Article 13(1) of Regulation (EU) No 1308/2013.
2. The public intervention prices for common wheat, durum wheat, barley, maize and paddy rice referred to in paragraph 1 shall be adjusted by price increases or reductions to those prices based on the main quality criteria for the products.
3. The Commission shall adopt implementing acts determining the increases or reductions to the public intervention prices of the products referred to in paragraph 2 of this Article under the conditions laid down therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).

*Article 3***Buying-in prices and applicable quantitative limitations**

1. Where public intervention is open pursuant to point (a) of Article 13(1) of Regulation (EU) No 1308/2013, buying-in shall be carried out at the fixed price referred to in Article 2 of this Regulation and shall not exceed the following quantitative limitations for each period referred to in Article 12 of Regulation (EU) No 1308/2013 respectively:
 - (a) for common wheat, 3 million tonnes;
 - (b) for butter, 50 000 tonnes;
 - (c) for skimmed milk powder, 109 000 tonnes.

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By way of derogation from the first subparagraph, in the year 2016, the quantitative limitations for the buying-in of butter and skimmed milk powder at fixed price shall be 100 000 tonnes for butter and 350 000 tonnes for skimmed milk powder. Any volumes bought in under a tendering procedure ongoing on 29 June 2016 shall not be counted against those quantitative limitations.

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2. Where public intervention is open pursuant to Article 13(1) of Regulation (EU) No 1308/2013:
 - (a) for common wheat, butter and skimmed milk powder beyond the quantitative limitations referred to in paragraph 1 of this Article; and

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(b) for durum wheat, barley, maize, paddy rice and beef and veal,

buying-in shall be carried out by way of a tendering procedure to determine the maximum buying-in price.

The maximum buying-in price shall not exceed the relevant level referred to in Article 2(1) of this Regulation and shall be fixed by means of implementing acts.

3. In special and duly justified circumstances, the Commission may adopt implementing acts:

- (a) restricting tendering procedures to a Member State or to a region of a Member State, or
- (b) subject to Article 2(1), determining the buying-in prices for public intervention, per Member State or per region of a Member State on the basis of recorded average market prices.

4. The buying-in prices referred to in paragraphs 2 and 3 for common wheat, durum wheat, barley, maize and paddy rice shall be adjusted by increases or reductions to those prices based on the main quality criteria for those products.

The Commission shall adopt implementing acts determining such increases or reductions.

5. The implementing acts referred to in paragraphs 2, 3 and 4 of this Article shall be adopted in accordance with the examination procedure referred to in Article 15(2).

6. The Commission shall adopt, without applying the procedure referred to in Article 15(2), the implementing acts necessary in order to:

- (a) respect the intervention limitations set out in paragraph 1 of this Article; and
- (b) apply the tendering procedure referred to in paragraph 2 of this Article for common wheat, butter and skimmed milk powder beyond the quantitative limitations set out in paragraph 1 of this Article.

Article 4

Aid for private storage

1. To establish the amount of aid for private storage for the products listed in Article 17 of Regulation (EU) No 1308/2013, where aid is granted in accordance with Article 18(2) of that Regulation, either a tendering procedure shall be opened for a limited period or the aid shall be fixed in advance. The aid may be fixed per Member State or per region of a Member State.

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2. The Commission shall adopt implementing acts:
 - (a) where a tendering procedure applies, establishing the maximum amount of aid for private storage;
 - (b) where the aid is fixed in advance, fixing the amount of aid based on the storage costs and/or other relevant market elements.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).

*Article 5***Aid for the supply of fruit and vegetables to children**

1. The Union aid for the supply of fruit and vegetables, processed fruit and vegetables and banana products to children referred to in Article 23 of Regulation (EU) No 1308/2013 shall neither:
 - (a) exceed any of the following limits:
 - (i) EUR 150 million per school year;
 - (ii) 75 % of the costs of supply and related costs referred to in Article 23(1) of Regulation (EU) No 1308/2013, or 90 % of such costs in less developed regions and in the outermost regions referred to in Article 349 of the Treaty; nor
 - (b) cover costs other than the costs of supply and related costs referred to in Article 23(1) of Regulation (EU) No 1308/2013.

For the purposes of point (a)(ii) of the first subparagraph, ‘less developed regions’ means those regions defined as such in point (a) of the first subparagraph of Article 90(2) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council ⁽¹⁾.

2. Member States participating in the school fruit and vegetables scheme shall each receive at least EUR 290 000 of Union aid.

The Commission shall adopt implementing acts fixing the indicative allocation of the aid referred to in paragraph 1 of this Article to each Member State on the basis of the criteria referred to in Article 23(5) of Regulation (EU) No 1308/2013.

The Commission shall assess at least every three years whether the indicative allocation remains consistent with criteria referred to in Article 23(5) of Regulation (EU) No 1308/2013. Where necessary, the Commission shall adopt implementing acts fixing a new indicative allocation.

⁽¹⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

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Following the requests of the Member States in accordance with the second subparagraph of Article 23(5) of Regulation (EU) No 1308/2013, the Commission shall each year adopt implementing acts fixing the definitive allocation of the aid referred to in paragraph 1 of this Article between participating Member States in accordance with the conditions laid down in that paragraph.

The implementing acts referred to in this paragraph shall be adopted in accordance with the examination procedure referred to in Article 15(2) of this Regulation.

*Article 6***Aid for the supply of milk and milk products to children**

1. The Union aid for the supply of milk and milk products to children provided for in Article 26 of Regulation (EU) No 1308/2013 shall be granted for a maximum quantity of 0,25 litre of milk equivalent per child and per school day.
2. The Union aid shall be EUR 18,15/100 kg for all milk.
3. The Commission shall adopt implementing acts fixing the aid amounts for eligible milk products other than milk, based, in particular, on the milk components of the product concerned. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).

*Article 7***Sugar sector production charge**

1. The production charge on sugar quota, isoglucose quota and inulin syrup quotas provided for in Article 128 of Regulation (EU) No 1308/2013 shall be set at EUR 12,00 per tonne for the quota sugar and quota inulin syrup. For isoglucose, the production charge shall be set at 50 % of the charge applicable to sugar.
2. The totality of the production charge paid in accordance with paragraph 1 shall be charged by the Member State to undertakings on its territory on the basis of the quota held during the marketing year concerned.

Payments shall be made by those undertakings by the end of February of the relevant marketing year at the latest.
3. Union sugar and inulin syrup undertakings may require sugar beet or sugar cane growers or chicory suppliers to bear up to 50 % of the production charge concerned.

*Article 8***Sugar sector production refund**

The production refund for the products of the sugar sector provided for in Article 129 of Regulation (EU) No 1308/2013 shall be fixed by the Commission by means of implementing acts based on:

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- (a) the costs arising from the use of imported sugar that the industry would have to bear in the event of supply from the world market; and
- (b) the price of surplus sugar available on the Union market or, if there is no surplus sugar on that market, the reference threshold for sugar fixed in point (c) of Article 7(1) of Regulation (EU) No 1308/2013.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2) of this Regulation.

*Article 9***Minimum beet price**

1. The minimum price for quota beet provided for in Article 135 of Regulation (EU) No 1308/2013 shall be EUR 26,29 per tonne until the end of the 2016/2017 marketing year for sugar on 30 September 2017.
2. The minimum price referred to in paragraph 1 shall apply to sugar beet of the standard quality defined in Part B of Annex III to Regulation (EU) No 1308/2013.
3. Sugar undertakings buying quota beet suitable for processing into sugar and intended for processing into quota sugar shall be required to pay at least the minimum price, adjusted by price increases or reductions to allow for deviations from the standard quality. Such increases or reductions shall be determined by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).
4. For the quantities of sugar beet corresponding to the quantities of industrial sugar or surplus sugar that are subject to the surplus levy provided for in Article 11, the sugar undertaking concerned shall adjust the purchase price so that it is at least equal to the minimum price for quota beet.

*Article 10***Adjustment of the national sugar quotas**

The Council may, in accordance with Article 43(3) of the Treaty, on a proposal by the Commission, adjust the quotas set out in Annex XII to Regulation (EU) No 1308/2013 as a result of any decisions by Member States taken in accordance with Article 138 of that Regulation.

*Article 11***Surplus levy in the sugar sector**

1. A surplus levy, including as provided for in Article 142 of Regulation (EU) No 1308/2013, shall be fixed at a level which is sufficiently high so as to avoid the accumulation of quantities referred to in that Article. That levy shall be fixed by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2) of this Regulation.

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2. The surplus levy referred to in paragraph 1 shall be charged by the Member State to the undertakings on its territory on the basis of the quantities of production referred to in that paragraph that have been established for those undertakings for the marketing year concerned.

*Article 12***Temporary market management mechanism in the sugar sector**

With a view to ensuring a sufficient and balanced supply of sugar to the Union market, until the end of the 2016/2017 marketing year for sugar on 30 September 2017, notwithstanding Article 142 of Regulation (EU) No 1308/2013, the Commission may, for the quantity and time necessary, apply temporarily by means of implementing acts a surplus levy on out-of-quota production referred to in point (e) of Article 139(1) of that Regulation.

The Commission shall fix the amount of such levy by means of implementing acts.

The implementing acts referred to in this Article shall be adopted in accordance with the examination procedure referred to in Article 15(2) of this Regulation.

*Article 13***Fixing of export refunds**

1. Under the conditions laid down in Article 196 of Regulation (EU) No 1308/2013 and as provided for in Article 198 of that Regulation, the Commission may adopt implementing acts fixing export refunds:

- (a) at regular intervals, for products from the list in Article 196(1) of Regulation (EU) No 1308/2013;
- (b) by tendering procedures for cereals, rice, sugar and milk and milk products.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2) of this Regulation.

2. One or more of the following shall be taken into account when export refunds for a product are being fixed:

- (a) the existing situation and future trends with regard to:
 - (i) prices and availabilities of that product on the Union market,
 - (ii) prices of that product on the world market;

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- (b) the aims of the common market organisation, which are to ensure equilibrium and the natural development of prices and trade on that market;
- (c) the need to avoid disturbances likely to cause a prolonged imbalance between supply and demand on the Union market;
- (d) the economic aspect of the proposed exports;
- (e) the limits resulting from international agreements concluded in accordance with the Treaty;
- (f) the need to establish a balance between the use of Union basic products in the manufacture of processed goods for export to third countries and the use of third country products brought in under processing arrangements;
- (g) the most favourable marketing costs and transport costs from Union markets to Union ports or other places of export together with forwarding costs to the countries of destination;
- (h) demand on the Union market;
- (i) in respect of the pigmeat, eggs and poultrymeat sectors, the difference between prices within the Union and prices on the world market for the quantity of feed grain input required for the production in the Union of products of those sectors.

3. The amount of the refund may, where necessary to ensure a swift response to fast changing market situations, be adjusted by the Commission, by means of implementing acts, either at the request of a Member State or on its own initiative. Those implementing acts shall be adopted without applying the procedure referred to in Article 15(2).

Article 14

Specific measures on export refunds for cereals and rice

1. The Commission may adopt implementing acts fixing corrective amounts applicable to the export refunds fixed in respect of the cereals and rice sectors. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).

Where necessary to ensure a swift response to fast changing market situations, the Commission may adopt implementing acts, without applying the procedure referred to in Article 15(2), amending such corrective amounts.

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The Commission may apply this paragraph to products of the cereals and rice sectors that are exported in the form of processed goods in accordance with Council Regulation (EC) No 1216/2009 ⁽¹⁾.

2. For the first three months of the marketing year, the refund applicable to exports of malt, either in storage at the end of the previous marketing year or made from barley in stock at that time, shall be that which would have applied in respect of the export licence in question to exports made during the last month of the preceding marketing year.

3. The refund on products listed in points (a) and (b) of Part I of Annex I to Regulation (EU) No 1308/2013, established in accordance with Article 199(2) of that Regulation, may be adjusted by the Commission, by means of implementing acts, in line with any changes in the level of the intervention price.

The first subparagraph may be applied, in whole or in part, to products listed in points (c) and (d) of Part I of Annex I to Regulation (EU) No 1308/2013 as well as to products listed in Part I of that Annex and exported in the form of processed goods in accordance with Regulation (EC) No 1216/2009. In that case, the Commission shall, by means of implementing acts, correct the adjustment referred to in the first subparagraph of this paragraph by applying a coefficient expressing the ratio between the quantity of basic product and the quantity thereof contained in the processed product exported or used in the goods exported.

The implementing acts referred to in this paragraph shall be adopted in accordance with the examination procedure referred to in Article 15(2) of this Regulation.

*Article 15***Committee procedure****▼C1**

1. The Commission shall be assisted by the Committee for the Common Organisation of the Agricultural Markets, established by Article 229 of Regulation (EU) No 1308/2013. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

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2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

*Article 16***Correlation table**

References to the relevant provisions of Regulation (EC) No 1234/2007 following its repeal by Regulation (EU) No 1308/2013 shall be construed as references to this Regulation and be read in accordance with the correlation table set out in the Annex to this Regulation.

⁽¹⁾ Council Regulation (EC) No 1216/2009 of 30 November 2009 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products (OJ L 328, 15.12.2009, p. 10).

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Article 17

Entry into force and application

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

It shall apply from 1 January 2014.

Articles 7 to 12 shall apply until the end of the 2016/17 marketing year for sugar on 30 September 2017.

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

▼B*ANNEX***CORRELATION TABLE**

referred to in Article 16

Regulation (EC) No 1234/2007	This Regulation
Article 18(1) and (3)	Article 2
Article 18(2)(a)	Article 3(1)(a)
Article 13(1)(c)	Article 3(1)(b)
Article 13(1)(d)	Article 3(1)(c)
Article 18(2), first subparagraph	Article 3(2)
Article 18(2), second subparagraph	Article 3(3)
Article 18(4)	Article 3(4)
▼C1	
Article 43(aa)	Article 3(6)
▼B	
Article 31(2)	Article 4
Article 103ga(4)	Article 5(1)
Article 103ga(5)	Article 5(2)
Article 102(4)	Article 6(1)
Article 102(3)	Article 6(2) and (3)
Article 51(2)	Article 7(1)
Article 51(3)	Article 7(2)
Article 51(4)	Article 7(3)
Article 97	Article 8
Article 49	Article 9
Article 64(2)	Article 11(1)
Article 64(3)	Article 11(2)
Article 164(2)	Article 13(1) and (3)
Article 164(3)	Article 13(2)
Article 164(4)	Article 14(1)
Article 165	Article 14(2)
Article 166	Article 14(3)