

II

(Non-legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) 2016/2145

of 1 December 2016

amending Regulation (EU) No 1370/2013 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) By its judgment of 7 September 2016 in Case C-113/14 ⁽¹⁾, the Court of Justice of the European Union ('the Court') annulled Article 7 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council ⁽²⁾ determining the reference thresholds for agricultural products on the grounds that those thresholds should have been adopted by the Council only, on a proposal from the Commission, on the basis of Article 43(3) of the Treaty on the Functioning of the European Union (TFEU).
- (2) The Court also annulled Article 2 of Council Regulation (EU) No 1370/2013 ⁽³⁾ determining the level of the public intervention prices on the grounds that that Article is inextricably linked to the annulled Article 7 of Regulation (EU) No 1308/2013.
- (3) The Court declared that the legal effects of Article 7 of Regulation (EU) No 1308/2013 and of Article 2 of Regulation (EU) No 1370/2013 were to be maintained for a maximum period of five months from the date of delivery of the judgment.
- (4) It is therefore necessary to amend Regulation (EU) No 1370/2013 before the end of the five-month period by respectively inserting and amending the provisions on the reference thresholds and intervention price levels annulled by the Court and by making certain consequential adjustments.
- (5) In view of the time-limit set by the Court in its judgment, this Regulation should enter into force on the date of its publication,

⁽¹⁾ Judgment of the Court of Justice of 7 September 2016, Germany v Parliament and Council, C-113/14, ECLI:EU:C:2016:635.

⁽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 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

⁽³⁾ 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).

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 1370/2013 is amended as follows:

(1) The following Article is inserted:

Article 1a

Reference thresholds

1. The following reference thresholds are fixed:

- (a) for the cereals sector: EUR 101,31/tonne, related to the wholesale stage for goods delivered to the warehouse, before unloading;
- (b) for paddy rice: EUR 150/tonne for the standard quality as defined in point A of Annex III to Regulation (EU) No 1308/2013, related to the wholesale stage for goods delivered to the warehouse, before unloading;
- (c) for sugar of standard quality as defined in point B of Annex III to Regulation (EU) No 1308/2013, related to unpacked sugar, ex-factory:
 - (i) for white sugar: EUR 404,4/tonne;
 - (ii) for raw sugar: EUR 335,2/tonne;
- (d) for the beef and veal sector: EUR 2 224/tonne for carcasses of male bovine animals of conformation/fat cover class R3 as laid down in the Union scale for the classification of carcasses of bovine animals aged eight months or more referred to in point A of Annex IV to Regulation (EU) No 1308/2013;
- (e) for the milk and milk products sector:
 - (i) EUR 246,39 per 100 kg for butter;
 - (ii) EUR 169,80 per 100 kg for skimmed milk powder;
- (f) for pigmeat: EUR 1 509,39/tonne for pig carcasses of a standard quality defined in terms of weight and lean meat content as laid down in the Union scale for the classification of pig carcasses referred to in point B of Annex IV to Regulation (EU) No 1308/2013, as follows:
 - (i) carcasses weighing from 60 to less than 120 kg: class E;
 - (ii) carcasses weighing from 120 to 180 kg: class R;
- (g) for the olive oil sector:
 - (i) EUR 1 779/tonne for extra virgin olive oil;
 - (ii) EUR 1 710/tonne for virgin olive oil;
 - (iii) EUR 1 524/tonne for lampante olive oil with two degrees of free acidity; this amount shall be reduced by EUR 36,70/tonne for each additional degree of acidity.

2. The reference thresholds provided for in paragraph 1 shall be kept under review by the Commission, taking account of objective criteria, in particular developments in production, costs of production (particularly inputs) and market trends. When necessary, the reference thresholds shall be updated in accordance with the procedure laid down in Article 43(3) TFEU in the light of developments in production and markets.

3. References to reference thresholds in Regulation (EU) No 1308/2013 shall be construed as references to the thresholds fixed in paragraph 1 of this Article.’

(2) Article 2 is replaced by the following:

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 1a 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 1a 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 85 % of the reference threshold set out in Article 1a.

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).'

(3) In Article 8, point (b) is replaced by the following:

- (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 1a.'

Article 2

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

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

Done at Brussels, 1 December 2016.

For the Council
The President
A. ÉRSEK
