

Commission Implementing Regulation (EU) 2019/1804 of 28 October 2019 amending Implementing Regulation (EU) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance

COMMISSION IMPLEMENTING REGULATION (EU) 2019/1804

of 28 October 2019

amending Implementing Regulation (EU) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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⁽¹⁾, and in particular points (a) to (d) and (h) of the first subparagraph of Article 62(2), points (b) and (c) of the first subparagraph of Article 78 and Article 96(4) thereof,

Whereas:

- (1) Article 14(4) of Commission Implementing Regulation (EU) No 809/2014⁽²⁾ allows Member States to authorise beneficiaries of the payment for agricultural practices beneficial for the climate and the environment under Regulation (EU) No 1307/2013 of the European Parliament and of the Council⁽³⁾ to modify their single applications with respect to the use of the agricultural parcels declared after the final date for submission of the single application, in duly justified circumstances. During the growing season beneficiaries might need to adapt the cultivation plan as regards the crop or its location. This may be due to changed weather conditions or other agricultural conditions. Beneficiaries of the payment referred to in Article 30 of Regulation (EU) No 1305/2013 of the European Parliament and of the Council⁽⁴⁾ may be in a similar situation, particularly as regards catch crops. Therefore, it is also appropriate to allow Member States to authorise these beneficiaries to amend the single application or payment claim as regards the use of the parcels declared for the purpose of the payment referred to in Article 30 of Regulation (EU) No 1305/2013. Furthermore, this paragraph should be deleted from Article 14 of Implementing Regulation (EU) No 809/2014 and included in Article 15 thereof, since it concerns amendments to the single application or payment claim. It should also be clarified that these amendments may be done after the general deadlines for notifying amendments and that Member States may set a final deadline for their notification.
- (2) Article 15(1b) provides for the amendments of the single application or payment claim where checks by monitoring are carried out. It is appropriate to clarify that this provision

refers to the possibility to amend the single application or payment claims following the provisional results of the checks by monitoring. It should also be specified what these amendments may cover.

- (3) Article 15(2) of Implementing Regulation (EU) No 809/2014 sets out the deadline for the amendment of the single application or payment claim. Article 15(3) of that Regulation sets out the situations where the amendment of the single application or payment claim is no longer possible. These rules do not apply in case beneficiaries are subject to checks by monitoring, due to the specificities of these types of checks. It is therefore appropriate to clarify when these beneficiaries may make such amendments. Furthermore, it is appropriate to allow the competent authorities to fix the date for the notification of such amendments at the level of the aid scheme, support measure or type of operation checked by monitoring.
- (4) Member States may choose to carry out checks by monitoring for certain aid schemes, support measures, types of operation or requirements and standards relevant for cross-compliance, while maintaining the sample-based on-the-spot checks for other schemes, measures, types of operations or requirements and standards. This may lead to situations in which checks by monitoring reveal findings relevant for determining the compliance with the rules of the schemes, measures, types of operations, or standards and requirements relevant for cross-compliance, subject to the sample-based checks. It is therefore appropriate to provide rules on how to take into account those findings.
- (5) It should be clarified that the cross-notification obligation provided for in Article 27 of Implementing Regulation (EU) No 809/2014 applies as well to requirements and standards relevant for cross-compliance. Article 27 should therefore be amended accordingly.
- (6) Article 38 of Implementing Regulation (EU) No 809/2014 concerns area measurement. However, paragraph 1 of that Article refers to the possibility to limit the eligibility checks and the area measurement to a randomly selected sample of at least 50 % of the agricultural parcels for which an aid application or payment claim has been submitted. For the sake of clarity, rules regarding the verification of eligibility conditions should be deleted from Article 38 and included under Article 39.
- (7) Member States may choose to carry out checks by monitoring for certain aid schemes, or support measures or types of operation in accordance with Article 40a of Implementing Regulation (EU) No 809/2014 while maintaining the sample-based on-the-spot checks that include area measurement in Article 38 of that Regulation for other schemes, measures or operations. This may lead to situations in which an agricultural parcel measured in accordance with the sample-based on-the-spot check is different from the area established as a basis for the calculation of the aid or support where checks by monitoring are applied. Article 38 of Implementing Regulation (EU) No 809/2014 should therefore clarify which of the areas prevails in these cases.
- (8) All agricultural parcels declared by a beneficiary and selected for an on-the-spot check need to be measured according to Article 38 of Implementing Regulation (EU) No 809/2014 and their eligibility conditions verified according to Article 39 of the same Regulation. This includes agricultural parcels of permanent grassland or permanent

pasture of large size used in common by several beneficiaries, which may entail a heavy workload for the competent authorities. In order to contain the workload while maintaining an appropriate level of protection of the Union Funds, it is appropriate to provide for the possibility to substitute the measurements and checks of eligibility criteria, commitments and other obligations with checks based on the ortho-images used for the regular updates of the land parcel identification system and lay down the conditions under which the competent authorities may use this possibility.

- (9) When the verification of eligibility of the agricultural parcels during the on-the-spot checks of rural development measures is limited to a randomly selected sample of at least 50 % of the agricultural parcels for which a payment claim has been submitted, it may occur that some of the eligibility criteria, commitments and other obligations are not adequately checked. It is therefore appropriate to provide for, in Article 39 of Implementing Regulation (EU) No 809/2014, the selection of an additional risk based sample that allows for the checking of such eligibility criteria, commitment or other obligations.
- (10) A key aim of checks by monitoring is to support beneficiaries in fulfilling the eligibility criteria, commitments and other obligations and allow them to remedy the issues revealed. For this purpose, it is important to clarify the obligation of the competent authorities to communicate with beneficiaries in a timely manner, in particular on the warning alerts and the provisional results of the automated analysis of a time-series of satellite data. Therefore, point (d) of the first subparagraph of Article 40a(1) of Implementing Regulation (EU) No 809/2014 should set out key principles regarding the communication of provisional results of the checks by monitoring by the competent authorities.
- (11) The second subparagraph of Article 40a(1) of Implementing Regulation (EU) No 809/2014 refers to physical inspections. It is important to clarify that these physical inspections do not imply area measurement unless it is necessary to conclude on the eligibility of the aid or support requested.
- (12) Where competent authorities carry out sample-based on-the-spot checks in accordance with Article 38 and Article 39 of Implementing Regulation (EU) No 809/2014, they may limit the checks to a randomly selected sample of at least 50 % of the agricultural parcels for which an aid application or payment claim has been submitted. It is appropriate to allow the same level of flexibility where, in accordance with point (c) of the first subparagraph of Article 40a(1), checks by monitoring require a sample-based control of beneficiaries' agricultural parcels concerned by non-monitorable criteria.
- (13) The automated procedure used in the framework of checks by monitoring may reveal findings that are relevant for determining eligibility for area-based schemes, area-based measures or requirements and standards relevant for cross-compliance not checked by monitoring. In order to enable the competent authorities to adapt smoothly to the increasing use of checks by monitoring, it is appropriate to allow those authorities certain flexibility in the application of the requirement that all relevant information at their disposal has to be taken into account for the purpose of determining the fulfilment of eligibility criteria, commitments and other obligations as well as the requirements

and standards relevant for cross-compliance. Such flexibility should be limited in time so as to ensure equal treatment of farmers. Article 40a should therefore be amended accordingly. Furthermore, where such flexibility is used, competent authorities should take into account the relevant findings for the selection of the risk-based part of the control sample of the schemes, measures or types of operation as well as cross-compliance in the following claim year. Article 34(2) and (3), and Article 69(1) of Implementing Regulation (EU) No 809/2014 should therefore be amended accordingly.

- (14) Article 40b obliges Member States to notify the Commission about their decision to start carrying out checks by monitoring including certain data. In order to ensure that key information is included in the notification, which may evolve as competent authorities in the Member States extend the application of checks by monitoring, the Commission should provide Member States with a template for the notifications every year by 1 November. It is therefore appropriate to modify the first paragraph of Article 40b accordingly. It is also appropriate to delete the second paragraph of Article 40b since it referred only to claim year 2018 and is therefore obsolete.
- (15) Article 40a of Implementing Regulation (EU) No 809/2014 sets out the legal framework for the substitution of area-related on-the-spot checks with checks by monitoring based on Copernicus Sentinels data or other data of at least equivalent value. These data could also be relevant for the determination of the compliance with certain requirements and standards relevant for cross-compliance. With a view to reducing the burden of controls and to maximising the investment needed by the competent authorities to substitute the current on-the-spot checks method with checks by monitoring, a legal framework should therefore be provided to set out the conditions under which checks by monitoring can substitute on-the-spot checks in relation to cross-compliance.
- (16) It is appropriate to set a minimum control rate in order to ensure that the checks on requirements and standards relevant for cross-compliance are satisfactory in circumstances where data provided by Copernicus Sentinels satellites are not relevant. Physical inspections in the field should only be necessary if evidence collected using new technologies such as geo-tagged photos and Unmanned Aircraft Systems or relevant documentary evidence does not lead to a conclusive result or if the competent authorities anticipate that none of these types of evidence will be effective in checking the requirements and standards that cannot be monitored.
- (17) Checks by monitoring could also support beneficiaries in respecting the requirements and standards relevant for cross-compliance. This can be achieved by requiring national authorities to set up appropriate tools for communicating the provisional results of the checks by monitoring on cross-compliance requirements and standards to the beneficiaries in a timely manner and providing the possibility for the beneficiary to address or remedy the situation before the conclusions are drawn in the control report. This possibility should be without prejudice to the early warning system in Article 99(2) of Regulation (EU) No 1306/2013.
- (18) For the purposes of monitoring the implementation of checks by monitoring for cross-compliance, a notification obligation for Member States should be provided.
- (19) Implementing Regulation (EU) No 809/2014 should therefore be amended accordingly.

- (20) The flexibility introduced by the new paragraph 4 of Article 40a and by Article 70a(3) of Implementing Regulation (EU) No 809/2014, should apply as of 1 January 2019 in order to fulfil its purpose since it is precisely when Member States start applying checks by monitoring and using the new technology associated to these checks that they may be confronted with difficulties to comply with the requirement to take all relevant information into account for the purpose of determining the fulfilment of eligibility criteria, commitments and other obligations as well as the requirements and standards relevant for cross-compliance.
- (21) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Direct Payments and the Rural Development Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 809/2014 is amended as follows:

- (1) in Article 14, paragraph 4 is deleted.
- (2) Article 15 is replaced by the following:

Article 15

Amendments to the single application or payment claim

1 After the final date of submission of the single application or payment claim, individual agricultural parcels or individual payment entitlements may be added or adjusted in the single application or payment claim provided that the requirements under the direct payment schemes or rural development measures concerned are respected.

Changes regarding the use of direct payment scheme or rural development measure in respect of individual agricultural parcels or in respect of payment entitlements already declared in the single application may be made under the same conditions.

Where the amendments referred to in the first and second subparagraphs have a bearing on any supporting documents or contracts to be submitted, such documents or contracts may be amended accordingly.

1a Where a beneficiary has been notified of the results of the preliminary checks as referred to in Article 11(4), that beneficiary may amend the single application or payment claim in order to include all necessary corrections with respect to individual parcels in accordance with the results of those cross-checks where they indicated a potential non-compliance.

1b Where checks by monitoring are carried out in accordance with Article 40a, and the competent authorities have communicated the provisional results at parcel level referred to in point (d) of Article 40a(1), beneficiaries may amend the single application or payment claim regarding adjustment or use of individual agricultural parcels checked by monitoring, provided that the requirements under the direct payment schemes or rural development measures concerned are respected. Individual

payment entitlements may be added in cases where the amendment of the single application or payment claim leads to an increase of area declared.

- 2 Amendments made in accordance with the first and second subparagraphs of paragraph 1 shall be notified to the competent authority by 31 May of the year concerned, except in the case of Estonia, Latvia, Lithuania, Finland and Sweden, where they shall be notified by 15 June of the year concerned.

By way of derogation from the first subparagraph, Member States may set an earlier final date for the notification of such amendments. That date shall however not be earlier than 15 calendar days after the final date for submitting the single application or payment claim fixed in accordance with Article 13(1).

By way of derogation from the first and second subparagraphs, Member States may authorise the beneficiary to amend at a later date, in duly justified circumstances, the single application or payment claim as regards the use of the agricultural parcels declared for the purpose of the payment for agricultural practices beneficial for the climate and the environment in accordance with Chapter 3 of Title III of Regulation (EU) No 1307/2013 or the Natura 2000 and Water Framework Directive payment in accordance with Article 30 of Regulation (EU) No 1305/2013 provided that this does not put the beneficiary in a more favourable position with regard to the fulfilment of the obligations based on the initial application. In this case, Member States may decide to set a final date for the notification of these amendments to the competent authority.

Such notifications shall be made in writing or via the geo-spatial aid application form.

- 2a Amendments following the preliminary checks made in accordance with paragraph 1a shall be notified to the competent authority at the latest nine calendar days after the final date for notification of the results of the preliminary checks referred to in Article 11(4) to the beneficiary.

Such notifications shall be made in writing or via the geo-spatial aid application form.

- 2b Amendments following the communication of provisional results at parcel level referred to in point (d) of Article 40a(1) made in accordance with paragraph 1b shall be notified to the competent authority by the date fixed by that competent authority at the level of the aid scheme or support measure or type of operation. The date shall be at least 15 calendar days before the date when the payment of the first instalment or the advances is to be made in accordance with Article 75 of Regulation (EU) No 1306/2013.

Such notifications shall be made in writing or via the geo-spatial aid application form.

- 3 Where the competent authority has already informed the beneficiary of any case of non-compliance in the single application or payment claim or where it has given notice to the beneficiary of its intention to carry out an on-the-spot check or where an on-the-spot check reveals any non-compliance, amendments in accordance with paragraph 1 shall not be authorised in respect of the agricultural parcels affected by the non-compliance.

For the purposes of the first subparagraph, the obligation provided in point (d) of Article 40a(1) shall not be considered as a notice to the beneficiary of a competent authority's intention to carry out an on-the-spot check..

- (3) in Article 27, the second paragraph is replaced by the following:

Member States shall ensure that all relevant findings made in the framework of the checks on compliance with the eligibility criteria, commitments and other obligations in respect of the schemes listed in Annex I to Regulation (EU) No 1307/2013, requirements and standards relevant for cross-compliance, and/or support under rural development measures in the scope of the integrated system are cross-notified to the relevant competent authority in charge of granting the corresponding payment. Member States shall also ensure that public or private certification authorities referred to in Article 38 of Delegated Regulation (EU) No 639/2014 notify the competent authority in charge of granting the payment for agricultural practices beneficial for the climate and the environment of any finding relevant for the correct granting of such payment to beneficiaries who opted for fulfilling their obligations through the equivalence by certification.;

(4) Article 34 is amended as follows:

(a) in paragraph 2, the following fourth subparagraph is added:

Where the competent authority decides to apply the option provided for in Article 40a(4) or in Article 70a(3), findings revealed by checks by monitoring in the previous claim year shall be taken into account in the risk analysis referred to in point (d) of the second subparagraph.;

(b) in paragraph 3, the first subparagraph is replaced by the following:

For the purposes of Articles 32 and 33, between 20 % and 25 % of the minimum number of beneficiaries to be subject to on-the-spot checks and, where Article 32(2a) applies, 100 % of the collectives and between 20 % and 25 % of the commitments to be subject to on-the-spot checks shall be selected randomly. The remaining number of beneficiaries and commitments to be subject to on-the-spot checks shall be selected on the basis of a risk analysis. Where the competent authority decides to apply the option provided for in Article 40a(4) or in Article 70a(3), findings revealed by checks by monitoring in the previous claim year shall be taken into account in the risk analysis..

(5) Article 38 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. The actual area measurement of the agricultural parcel as part of an on-the-spot check may be limited to a randomly selected sample of at least 50 % of the agricultural parcels for which an aid application or payment claim has been submitted under the area-related aid schemes or rural development measures. When this sample check reveals any non-compliance, all agricultural parcels shall be measured or conclusions from the sample shall be extrapolated.;

(b) the following paragraphs 9 and 10 are inserted:

9. Where the eligible area measured in accordance with paragraphs 1 to 8 is different from the area established as a basis for the calculation of the aid or support where checks by monitoring are applied in accordance with Article 40a, the area measured in accordance with paragraphs 1 to 8 of this Article shall prevail.

10 In the specific case of agricultural parcels of permanent grassland or permanent pastures used in common by several beneficiaries, the actual measurement may be substituted by checks based on the ortho-images used for the update of the identification system for agricultural parcels referred to in Article 70 of Regulation (EU) No 1306/2013 provided that those checks are carried out on all such parcels within a period of maximum three years and the competent authority can demonstrate effective operational procedures complying with the rules laid down in Article 7 of this Regulation and effects the recoveries appropriately..

(6) Article 39 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. The verification of the eligibility criteria, commitments and other obligations of the agricultural parcels as part of an on-the-spot check may be limited to a randomly selected sample of at least 50 % of the agricultural parcels for which an aid application or payment claim has been submitted under the area-related aid schemes or rural development measures.

However, for rural development measures, when some eligibility criteria, commitments or other obligations of the agricultural parcels cannot be adequately checked when limiting the checks to a randomly selected sample in accordance with the first subparagraph, an additional risk based sample allowing the checking of these criteria, commitments or obligations shall be selected.

When the randomly selected sample or the risk based sample reveal any non-compliance, all agricultural parcels shall be subject to the verification of the eligibility criteria, commitments and other obligations or conclusions from the sample shall be extrapolated.

The eligibility of agricultural parcels shall be verified by any appropriate means, including evidence provided by the beneficiary at the request of the competent authority. That verification shall also include a verification of the crop, where appropriate. To that end, additional proof shall be requested where necessary.;

(b) paragraph 4 is replaced by the following:

4. In the specific case of agricultural parcels of permanent grassland or permanent pastures used in common by several beneficiaries, the verification of the eligibility criteria, commitments and other obligations may be substituted by checks based on the ortho-images used for the update of the identification system for agricultural parcels referred to in Article 70 of Regulation (EU) No 1306/2013 provided that those checks are carried out on all such parcels within a period of maximum three years and the competent authority can demonstrate effective operational procedures complying with the rules laid down in Article 7 of this Regulation and effects the recoveries appropriately. .

(7) Article 40a is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (d) of the first subparagraph is replaced by the following:

- (d) inform beneficiaries about the decision to carry out checks by monitoring and set up appropriate tools to communicate with beneficiaries on at least provisional results at parcel level of the procedure set up in accordance with point (a) of this subparagraph, warning alerts and evidence requested for the purposes of points (b) and (c). Competent authorities shall ensure timely communication with the beneficiaries to support them in fulfilling the eligibility criteria, commitments and other obligations and allow the beneficiaries to address or remedy the situation before the conclusions are drawn in the control report referred to in Article 41.;
- (ii) the second subparagraph is replaced by the following:

For the purposes of points (b) and (c) of the first subparagraph, physical inspections in the field shall be carried out when relevant evidence, including evidence provided by the beneficiary at the request of the competent authority, does not allow to conclude on the eligibility of the aid or support requested. Physical inspections in the field may be limited to checks of eligibility criteria, commitments and other obligations that are relevant to conclude on the eligibility of the aid or support requested. These physical inspections shall include area measurement only where necessary to conclude on the compliance with these eligibility criteria, commitments or other obligations.;
- (iii) the following third subparagraph is added:

For the purposes of point (c) of the first subparagraph, checks of eligibility criteria, commitments and other obligations which cannot be monitored by Copernicus Sentinels satellite data or other data with at least equivalent value may be limited to a sample of at least 50 % of the agricultural parcels declared by a beneficiary. The competent authority may select this sample randomly or on the basis of other criteria. Where the sample of agricultural parcels is selected randomly and the checks reveal any non-compliance, the competent authority shall extrapolate the conclusions from the sample or shall check all agricultural parcels. Where the sample is selected on the basis of other criteria and the checks reveal any non-compliance, the competent authority shall check all agricultural parcels.;
- (b) the following paragraph 4 is added:

4. Where the procedure referred to in point (a) of paragraph 1 reveals findings relevant for direct payment schemes, rural development measures and requirements and/or standards not checked by monitoring, competent authorities may decide to take into account those findings only in respect of beneficiaries selected in accordance with Articles 30, 31, 32 and 68 for on-the-spot checks of direct payment schemes, rural development measures and requirements and/or standards not checked by monitoring. The derogation shall be limited to the three years following the 1st of January of the

calendar year in which the competent authority started carrying out checks by monitoring. .

(8) Article 40b is amended as follows:

(a) the first paragraph is replaced by the following:

Member States shall notify the Commission by 1 December of the calendar year preceding the calendar year in which they start carrying out checks by monitoring of their decision to opt for checks by monitoring and indicate the schemes or measures or types of operations and, where relevant, areas of such schemes or measures subject to checks by monitoring and the criteria used to select them. The Commission shall provide by 1 November of each calendar year a template for the submission of the notifications detailing the elements to be included in such notification.;

(b) the second paragraph is deleted.

(9) in Article 41(2), the third subparagraph is replaced by the following:

Where the on-the-spot check is carried out by means of remote sensing in accordance with Article 40 or by means of monitoring in accordance with Article 40a, the Member States may decide not to give the beneficiary the opportunity to sign the control report if no non-compliance is revealed during the check by remote-sensing or by monitoring. If any non-compliance is revealed as a consequence of such checks or by monitoring, the opportunity to sign the report shall be given before the competent authority draws its conclusions from the findings with regard to any resulting reductions, refusals, withdrawals or administrative penalties. Where checks by monitoring are applied, this obligation shall be considered fulfilled if beneficiaries are notified of non-compliances through the tools set up to communicate with beneficiaries in accordance with point (d) of Article 40a(1) and beneficiaries are given the opportunity to contest the non-compliances before the competent authority draws its conclusions from the findings with regard to any resulting reductions, refusals, withdrawals or administrative penalties..

(10) in Article 69(1) the first subparagraph is replaced by the following:

The selection of the sample of farms to be checked in accordance with Article 68 shall be based, where applicable, on a risk analysis according to the applicable legislation, or on a risk analysis appropriate to the requirements or standards. That risk analysis may be based on the level of an individual farm or on the level of categories of farms or geographical zones. Where the competent authority decides to apply the option provided for in Article 40a(4) or in Article 70a(3) of this Regulation, findings revealed by checks by monitoring in the previous claim year shall be taken into account in the risk analysis..

(11) in Article 70 the following paragraph 4 is inserted:

4. Competent authorities may carry out checks of the requirements and standards relevant for cross-compliance by means of checks by monitoring carried out in accordance with Article 70a of this Regulation..

(12) the following Articles 70a and 70b are inserted:

Article 70a

Checks by monitoring

1 Competent authorities may carry out checks by monitoring. Where they elect to do so, they shall:

- a set up a procedure of regular and systematic observation, tracking and assessment of all the requirements and standards relevant for cross-compliance which can be monitored by Copernicus Sentinels satellite data or other data with at least equivalent value, over a period of time that allows to conclude on the compliance with the requirements and standards;
- b carry out, where necessary, and in order to conclude on the determination of the compliance with the requirements and standards, appropriate follow-up activities;
- c carry out checks for 1 % of the beneficiaries concerned by requirements and standards relevant for cross-compliance which cannot be monitored by Copernicus Sentinels satellite data or other data with at least equivalent value, and are relevant to conclude on the compliance with the requirements and standards. Between 20 % and 25 % of the 1 % of the beneficiaries shall be selected randomly. The remaining beneficiaries shall be selected on the basis of a risk analysis;
- d inform beneficiaries about the decision to carry out checks by monitoring and set up appropriate tools to communicate with beneficiaries on at least provisional results at parcel level of the procedure set up in accordance with point (a) of this paragraph, warning alerts and evidence requested for the purposes of points (b) and (c). Competent authorities shall ensure timely communication with the beneficiaries to support them in complying with the requirements and standards and, without prejudice to the early warning system in Article 99(2) of Regulation (EU) No 1306/2013, allow the beneficiary to address or remedy the situation before the conclusions are drawn in the control report referred to in Article 72, but not later than one month following the communication of the provisional results.

For the purposes of points (b) and (c), physical inspections in the field shall be carried out when relevant evidence, including evidence provided by the beneficiary at the request of the competent authority, does not allow to conclude on the compliance with the requirements and standards relevant for cross-compliance subject to the checks by monitoring. Physical inspections in the field may be limited to checks of requirements and standards that are relevant to conclude on the compliance with the requirements and standards relevant for cross-compliance subject to the checks by monitoring.

2 Where the competent authority carries out checks by monitoring in accordance with paragraph 1, can demonstrate effective operational procedures complying with the rules laid down in Articles 7 and 29, and has proven the quality of the identification system for agricultural parcels as assessed in accordance with Article 6 of Delegated Regulation (EU) No 640/2014, Articles 25, 68, 69 and 71 of this Regulation do not apply.

3 Where the procedure referred to in point (a) of paragraph 1 reveals findings relevant for direct payment schemes, rural development measures and requirements and/or standards not checked by monitoring, competent authorities may decide to take

into account those findings only in respect of beneficiaries selected in accordance with Articles 30, 31, 32 and 68 for on-the-spot checks of direct payment schemes, rural development measures and requirements and/or standards not checked by monitoring. The derogation shall be limited to the three years following the 1st of January of the calendar year in which the competent authority started carrying out checks by monitoring.

Article 70b

Notifications

Member States shall notify the Commission by 1 December of the calendar year preceding the calendar year in which they start carrying out checks by monitoring of their decision to opt for checks by monitoring in accordance with Article 70a..

(13) Article 72 is amended as follows:

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

Where checks by monitoring are carried out in accordance with Article 70a, points (a)(ii) and (iii) of the second subparagraph of this paragraph shall not apply. The control report shall indicate the results of the checks by monitoring at parcel level.;

(b) paragraph 2 is replaced by the following:

2. Paragraph 1 shall apply regardless whether the beneficiary in question was selected for the on-the-spot check in accordance with Article 69, checked on the spot pursuant to the legislation applicable to the acts and standards in accordance with Article 68(2), checked by monitoring in accordance with Article 70a, or as a follow-up of non-compliance brought to the attention of the competent control authority in any other way.;

(c) in paragraph 3, the first subparagraph is replaced by the following:

The beneficiary shall be informed of any determined non-compliance within three months after the date of the on-the-spot check. When checks by monitoring are carried out in accordance with Article 70a, the beneficiary shall be informed of any determined non-compliance within three months after the expiry of the time period granted to the beneficiary to address or remedy the situation in accordance with Article 70a(1)(d).;

(d) in paragraph 4, the first subparagraph is replaced by the following:

Without prejudice to any particular provisions contained in the legislation applicable to the requirements and standards, the control report shall be finalised within one month after the on-the-spot check. When checks by monitoring are carried out in accordance with Article 70a, the control report shall be finalised within one month after the expiry of the time period granted to the beneficiary to address or remedy the situation in accordance with Article 70a(1)(d). However, that period may be extended to three months under duly justified circumstances, in particular if chemical or physical analysis so requires..

Article 2

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

The following points of Article 1 shall apply as from 1 January 2019:

- (a) point (7)(b);
- (b) point (12) as regards Article 70a(3) of Implementing Regulation (EU) No 809/2014.

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

Done at Brussels, 28 October 2019.

For the Commission

The President

Jean-Claude JUNCKER

- (1) [OJ L 347, 20.12.2013, p. 549](#).
- (2) Commission Implementing Regulation (EU) No 809/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance ([OJ L 227, 31.7.2014, p. 69](#)).
- (3) Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 ([OJ L 347, 20.12.2013, p. 608](#)).
- (4) Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 ([OJ L 347 20.12.2013, p. 487](#)).