II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2022/2513

of 26 September 2022

amending Delegated Regulation (EU) 2017/891 as regards the maximum amount of support for market withdrawals for free distribution of fruits and vegetables

THE EUROPEAN COMMISSION,

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

Having regard to 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 ([1]), and in particular Article 37(d)(iv) thereof,

Whereas:

(1) Title II of Commission Delegated Regulation (EU) 2017/891 ([2]) lays down rules on the activities and operational programmes of producer organisations in the fruit and vegetables sector. Chapter III of that Title contains rules on crisis prevention and management measures, including, inter alia, market withdrawals.

(2) Delegated Regulation (EU) 2021/652 ([3]) amended Delegated Regulation (EU) 2017/891 as regards the support for market withdrawals of processed fruit and vegetables for free distribution, to avoid overcompensation of such market withdrawals.

(3) However, the experience of Member States and producer organisations in implementing the requirements on such market withdrawals laid down by Delegated Regulation (EU) 2017/891, as amended by Delegated Regulation (EU) 2021/652, showed that compliance with certain of those requirements proved to be seriously difficult or impossible as regards certain products. In particular, Article 45(1), fourth subparagraph of that Regulation provides that the sum of the withdrawal compensation, the sorting and packing costs and the transports costs has not to exceed the average price of the related processed product at 'ex-processor' or 'ex-producer organisation' stage during the three previous years if the free distribution takes place after processing. However, withdrawal compensation in the framework of free distribution of fruits and vegetables refers to the product at the fresh stage, sorted, packed and placed at the destination of the charitable institution benefiting from it, while the average market price not to be exceeded refers to a processed product at the expedition place ('ex-producer organisation' or 'ex-processor'). From the analysis provided by Member States and producer organisations, it results, that such conditions could not be fulfilled at all for certain products, in particular summer fruits, due to the different nature of the elements compared (e.g. fresh products placed at destination place whilst processed products at expedition place). It is therefore appropriate to amend the relevant provisions of Delegated Regulation (EU) 2017/891, while keeping enough elements to avoid any kind of overcompensation of market withdrawals.

([1]) OJ L 347, 20.12.2013, p. 671.

([2]) Commission Delegated Regulation (EU) 2017/891 of 13 March 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to penalties to be applied in those sectors and amending Commission Implementing Regulation (EU) No 543/2011 (OJ L 138, 25.5.2017, p. 4).

([3]) Commission Delegated Regulation (EU) 2021/652 of 10 February 2021 amending Delegated Regulation (EU) 2017/891 as regards the activities and operational programmes of producer organisations in the fruit and vegetables sector (OJ L 135, 21.4.2021, p. 4).

(4) Delegated Regulation (EU) 2017/891 should therefore be amended accordingly.

(5) For reasons of equal treatment of producer organisations withdrawing from the market fruits and vegetables for free distribution during the production year 2022, the new calculation method should cover the entire harvesting period. As harvest of peaches and nectarines starts from April each year, this Regulation should therefore apply from 1 April 2022,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2017/891

Delegated Regulation (EU) 2017/891 is amended as follows:

(1) in Article 45(1), the fourth subparagraph is replaced by the following:

'The sum of costs of sorting and packaging referred to in Article 17(1) of Implementing Regulation (EU) 2017/892 of fruit and vegetables withdrawn from the market for free distribution and listed in Annex V to that Regulation, added to the amount of support for market withdrawals as referred to in the first subparagraph of this paragraph, shall not exceed 80 % of the average "ex-producer organisation" market price of the product concerned at fresh stage in the previous last three years.';

(2) in Article 46(2), the fourth subparagraph is replaced by the folllowing:

'Member States may authorise payment in kind by the beneficiaries of free distribution of fruits and vegetables withdrawn from the market and undergoing processing, where such payment only compensates for processing, sorting and packaging costs and where the Member State in which the payment takes place has adopted rules ensuring that the processed products are intended for consumption by the final recipients referred to in the second subparagraph of this paragraph. The limit laid down in Article 45(1), fourth subparagraph, shall apply.'.

Article 2

Entry into force

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

This Regulation shall apply from 1 April 2022.

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

Done at Brussels, 26 September 2022.

For the Commission
The President
Ursula VON DER LEYEN