



COMMISSION DELEGATED REGULATION (EU) 2025/310
of 5 December 2024
amending Delegated Regulation (EU) 2022/127 as regards the annual performance clearance and conformity procedure

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013⁽¹⁾, and in particular Article 54(4) and Article 55(6) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2022/127⁽²⁾ supplements Regulation (EU) 2021/2116 with rules on paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro.
- (2) The experience gained from the first year of implementation of the annual performance clearance exercise referred to in Article 54 of Regulation (EU) 2021/2116, and from the preparation of the second year's exercise, shows that Member States bear a disproportionate administrative burden in providing justifications for the purposes of annual performance clearance for deviations of realised unit amounts from planned unit amounts.
- (3) Pursuant to Article 37 of Regulation (EU) 2021/2116, expenditure related to interventions referred to in Regulation (EU) 2021/2115 of the European Parliament and of the Council⁽³⁾ is only eligible for Union financing if it has been effected by accredited paying agencies in accordance with the applicable Union rules and with the applicable governance systems and if it is matched by a corresponding output. Compliance with those requirements is ensured by the paying agencies referred to in Article 9 of Regulation (EU) 2021/2116, the certification bodies referred to in Article 12 of that Regulation and by the Commission within the framework of the conformity procedure referred to in Article 55 of that Regulation. This provides assurance that the realised outputs are achieved in line with the Union legislation and that the CAP Strategic Plans deliver on the milestones and targets set out by the Member States in their CAP Strategic Plans as a part of their performance systems.

⁽¹⁾ OJ L 435, 6.12.2021, p. 187, ELI: <http://data.europa.eu/eli/reg/2021/2116/oj>.

⁽²⁾ Commission Delegated Regulation (EU) 2022/127 of 7 December 2021 supplementing Regulation (EU) 2021/2116 of the European Parliament and of the Council with rules on paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro (OJ L 20, 31.1.2022, p. 95, ELI: http://data.europa.eu/eli/reg_del/2022/127/oj).

⁽³⁾ Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013 (OJ L 435, 6.12.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/2115/oj>).

- (4) Moreover, as a result of the amendment made by Regulation (EU) 2024/1468 of the European Parliament and of the Council (*) to Regulations (EU) 2021/2115 and (EU) 2021/2116, Member States are allowed to submit to the Commission two requests for amendment per year, and this on elements such as planned unit amounts, outputs and financial allocations for interventions that are the basis for the annual performance clearance. Member States also increasingly use the possibility laid down in Article 119(9) of Regulation (EU) 2021/2115 to make and apply modifications to these elements of their CAP Strategic Plans relating to interventions under Title III, Chapter IV, of that Regulation. This impacts the annual performance clearance and increase the administrative burden linked with it.
- (5) To alleviate the administrative burden and to improve the cost-efficiency of the annual performance clearance, Member States should not be required to provide justifications for the purpose of the annual performance clearance for deviations of realised unit amounts from planned unit amounts where the total amount of expenditure corresponding to these deviations does not exceed a *de minimis* threshold expressed as a percentage of the expenditure declared in the annual performance report pursuant to Article 134(5), point (b), of Regulation (EU) 2021/2115. That total amount is calculated by multiplying the deviation for each unit amount by the corresponding number of outputs and adding up the resulting amounts. For the purpose of this calculation only deviations resulting in excess expenditure should be taken into account. In order to avoid a detrimental impact on the Union funds and ensure proportionality, it is appropriate to set the *de minimis* threshold at 2 %. This percentage aligns with the generally accepted threshold as regards reasonable assurance applied in audits on Union policies and budget.
- (6) However, the *de minimis* threshold for submission of justifications for the purposes of annual performance clearance should not apply to deviations of realised unit amounts from the maximum planned unit amounts referred to in Article 102 of Regulation (EU) 2021/2115, given that maximum planned unit amounts have been set to ensure flexibility to avoid unused funds, whilst avoiding overcompensation of farmers.
- (7) The requirement to provide justifications in the annual performance reports pursuant to Article 134(9) of Regulation (EU) 2021/2115 for the purpose of Article 40(2) of Regulation (EU) 2021/2116, for any excess of a realised unit amount from planned unit amount higher than 50 % is not affected by this Regulation.
- (8) It is necessary to clarify the text of Article 14(8) and of Article 15(4) of Delegated Regulation (EU) 2022/127 as the wording could inadvertently lead the Commission to apply a level of flat rate correction which is lower than the risk to the Union budget. Those provisions should therefore be reworded so as to indicate clearly that, where objective elements demonstrate that the maximum loss for the funds is lower than or equal to the loss which would derive from the application of a flat rate lower than that proposed by the Commission, the Commission is to apply that lower flat rate in deciding on the amounts to be excluded from Union financing.
- (9) Since annual performance reports for financial year 2024 are to be submitted by 15 February 2025, this Regulation should enter into force as soon as possible and the *de minimis* threshold should apply to annual performance clearance procedures as of financial year 2024.

(*) Regulation (EU) 2024/1468 of the European Parliament and of the Council of 14 May 2024 amending Regulations (EU) 2021/2115 and (EU) 2021/2116 as regards good agricultural and environmental condition standards, schemes for climate, environment and animal welfare, amendment of the CAP Strategic Plans, review of the CAP Strategic Plans and exemptions from controls and penalties (OJ L 2024/1468, 24.5.2024, ELI: <http://data.europa.eu/eli/reg/2024/1468/oj>).

(10) Delegated Regulation (EU) 2022/127 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2022/127

Delegated Regulation (EU) 2022/127 is amended as follows:

1. in Article 13, in paragraph 2, the following second subparagraph is added:

‘By way of derogation from the first subparagraph, Member States are not required to provide justifications for the purpose of the annual performance clearance for deviations of realised unit amounts from planned unit amounts where the total expenditure corresponding to these deviations does not exceed 2 % of the total expenditure declared in the annual performance report in accordance with Article 134(5), point (b), of Regulation (EU) 2021/2115 for the financial year concerned. For the calculation towards this threshold only deviations resulting in excess expenditure shall be taken into account.

However, Member States shall provide justifications for the purposes of the annual performance clearance for all excesses of realised unit amounts from maximum planned unit amounts.’;

2. in Article 14, paragraph 8 is replaced by the following:

‘8. Where a Member State submits objective elements, which do not fulfil the requirements laid down in paragraphs 2 and 3 of this Article, but which demonstrate that the maximum loss for the funds is lower than or equal to the loss that would derive from the application of a flat rate lower than the one proposed, the Commission shall use that lower flat rate to determine the amounts to be excluded from Union financing pursuant to Article 55 of Regulation (EU) 2021/2116.’;

3. in Article 15, paragraph 4 is replaced by the following:

‘4. Where a Member State demonstrates that the maximum loss for the EAGF and the EAFRD is lower than or equal to the loss that would derive from the application of a flat rate lower than the one proposed, the Commission may use that lower flat rate or the certification body’s assessment of the governance systems in the context of its audit referred to in Article 12 of Regulation (EU) 2021/2116 to determine the amounts to be excluded from Union financing during the conformity procedure referred to in Article 55 of that Regulation.’.

Article 2

Entry into force and application

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

Article 1(1) shall apply to annual performance clearance procedures as of financial year 2024.

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

Done at Brussels, 5 December 2024.

For the Commission
The President
Ursula VON DER LEYEN
