

COMMISSION IMPLEMENTING REGULATION (EU) 2021/725**of 4 May 2021****derogating in respect of the year 2021 from Implementing Regulations (EU) No 809/2014, (EU) No 180/2014, (EU) No 181/2014, (EU) 2017/892, (EU) 2016/1150, (EU) 2018/274, (EU) No 615/2014 and (EU) 2015/1368 as regards certain administrative and on-the-spot checks applicable within the common agricultural policy**

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 Article 62(2) thereof,

Having regard to Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 ⁽²⁾, and in particular Article 8 and Article 18(1), second subparagraph, thereof,

Having regard to Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 ⁽³⁾, and in particular Article 7, Article 11(3) and Article 14(1), second subparagraph, thereof,

Whereas:

- (1) Due to the pandemic of COVID-19 and the extensive movement restrictions put in place in the Member States, exceptional administrative difficulties have been encountered in all Member States with the planning and execution of timely on-the-spot checks to the required number. Those difficulties risk delaying the performance of checks and the ensuing payment of aid. At the same time, farmers are vulnerable to the economic disruptions caused by the pandemic and experience financial difficulties and cash-flow problems.
- (2) In view of the unprecedented nature of those circumstances, the Commission adopted Commission Implementing Regulation (EU) 2020/532 ⁽⁴⁾ to alleviate those difficulties by derogating from different Implementing Regulations applicable in the area of the common agricultural policy as regards certain administrative and on-the-spot checks in terms of their timing and number. Considering the prolongation of the difficulties due to continuation of the pandemic of COVID-19 in 2021, it is appropriate to provide for similar measures also in year 2021.
- (3) Commission Implementing Regulation (EU) No 809/2014 ⁽⁵⁾ lays down rules on, inter alia, the timing of the on-the-spot checks, the control rates of certain on-the-spot checks within the integrated system, including for animal aid schemes, and the increase of the control rate as regards certain schemes. In addition, that Regulation contains rules

⁽¹⁾ OJ L 347, 20.12.2013, p. 549.

⁽²⁾ OJ L 78, 20.3.2013, p. 23.

⁽³⁾ OJ L 78, 20.3.2013, p. 41.

⁽⁴⁾ Commission Implementing Regulation (EU) 2020/532 of 16 April 2020 derogating in respect of the year 2020 from Implementing Regulations (EU) No 809/2014, (EU) No 180/2014, (EU) No 181/2014, (EU) 2017/892, (EU) 2016/1150, (EU) 2018/274, (EU) 2017/39, (EU) 2015/1368 and (EU) 2016/1240 as regards certain administrative and on-the-spot checks applicable within the common agricultural policy (OJ L 119, 17.4.2020, p. 3).

⁽⁵⁾ 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).

on on-the-spot checks relating to the eligibility criteria, commitments and other obligations in respect of livestock aid applications and payment claims under animal-related support measures, control rates for non-area-related and non-animal-related rural development measures and minimum control rates relating to cross-compliance.

- (4) Articles 24(4), 48(5), 49(1), 52(1), 60(2) and 71(3) of Implementing Regulation (EU) No 809/2014 lay down certain rules that the competent authority is to observe to carry out administrative or on-the-spot checks. In view of the circumstances caused by the pandemic of COVID-19, it is appropriate to encourage the performance of these checks with remote sensing and the use of new technologies such as unmanned aircraft systems, geotagged photos, global navigation satellite system (GNSS) receivers combined with the European Geostationary Navigation Overlay Service (EGNOS) and Galileo, data captured by the Copernicus Sentinels satellites and other relevant documentary evidence to be used for checking compliance with eligibility criteria, commitments or other obligations for the aid scheme or support measure concerned, as well as compliance with the requirements and standards relevant for cross-compliance.
- (5) Articles 26(4) and 42(1) of Implementing Regulation (EU) No 809/2014 contain rules on on-the-spot checks to verify that all eligibility criteria, commitments and other obligations are fulfilled and cover all animals for which aid applications or payment claims have been submitted under the animal aid schemes or animal-related support measures to be checked. In view of the current situation, it is appropriate to provide that where Member States are not in a position to carry out those on-the-spot checks as required by those provisions and the alternative evidence is not available, Member States may decide to carry those checks in respect of claim year 2021 or calendar year 2021 at any time of the year, in so far that they still allow the checking of the eligibility conditions.
- (6) Several obligations pursuant to Regulation (EU) No 1306/2013 in relation to cross-compliance and Regulation (EU) No 1307/2013 of the European Parliament and of the Council ⁽⁶⁾ in relation to animal-related aid schemes and support measures rely on specific and differentiated time frames for their fulfilment and consequently require the on-the-spot checks to be carried out within those frameworks. The measures Member States put in place to address the pandemic of COVID-19 affect the feasibility of performing the required on-the-spot-checks accurately and within the time limit corresponding to those obligations. Some types of checks may also not be possible to be carried out with the use of new technologies, replacing the visits on the farm. It is therefore necessary, in relation to certain checks to be carried out in 2021, to derogate from Articles 30 to 33, 40a, 50, 52 and Article 68(1) of Implementing Regulation (EU) No 809/2014 and to reduce the minimum rate of the on-the-spot checks compared to the normal control rates for area and animal-related aid schemes and support measures, rural development measures other than those under the integrated administration and control system and cross-compliance obligations, respectively. In order to ensure maximum efficiency of the possibility to limit the control population, it is also appropriate to derogate from Article 35 and Articles 50(5) and 68(4) of Implementing Regulation (EU) No 809/2014 and allow Member States to postpone the increase of control rates required by those provisions, including the control rates resulting from the derogations provided for in Article 4(4), Article 7, second paragraph, and Article 9, second paragraph, of Implementing Regulation (EU) 2020/532.
- (7) The derogations from Implementing Regulation (EU) No 809/2014 provided for in this Regulation should enable Member States to avoid delays in the control measures and processing of aid applications, and thus avoid delays of payments to beneficiaries for the year 2021. It is however imperative that those derogations do not impede the sound financial management and the requirement of a sufficient level of assurance. Accordingly, Member States making use of those derogations are responsible for taking all necessary measures to ensure that overpayments are avoided and that the recovery of undue amounts is instigated. Moreover, the use of these derogations should be covered by the management declaration referred to in Article 7(3), first subparagraph, point (b), of Regulation (EU) No 1306/2013 for financial years 2021 and 2022.

⁽⁶⁾ 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).

- (8) Commission Implementing Regulations (EU) No 180/2014 ⁽⁷⁾ and (EU) No 181/2014 ⁽⁸⁾ provide for control rates for checks of specific measures for agriculture in the outermost regions of the Union and the smaller Aegean islands. Due to the measures put in place to address the pandemic of COVID-19 that affect as well the outermost regions of the Union and the smaller Aegean islands, it is appropriate to derogate from those Regulations by extending the possibility to use new technologies as alternative sources of evidence in relation to checks and adapting control rates of on-the-spot checks for the year 2021.
- (9) Article 24 of Commission Implementing Regulation (EU) 2017/892 ⁽⁹⁾ provides that Member States are to check, including on-the-spot, the recognition criteria of producer organisations or associations of producer organisations in the fruit and vegetables sector. Due to the measures put in place to address the pandemic of COVID-19, on-the-spot-checks regarding recognition criteria should not apply in the year 2021.
- (10) Article 27(2) of Implementing Regulation (EU) 2017/892 fixes the sample for annual on-the-spot checks at least 30 % of the total aid applied for and provides that each producer organisation or association of producer organisations in the fruit and vegetables sector implementing an operational programme is to be visited at least once every 3 years. Article 27(7) of that Regulation further provides that actions implemented on individual holdings of members of producer organisations covered by the sample referred to in Article 27(2) of that Regulation are to be subject of at least one visit to verify their execution. Due to the measures put in place to address the pandemic of COVID-19, Member States may not be able to meet these requirements and should therefore be allowed to carry out a lower percentage of those checks in the year 2021 and should not be subjected in the year 2021 to the requirements on frequency of visits in producer organisations.
- (11) Article 29(2) of Implementing Regulation (EU) 2017/892 provides that the first-level checks on withdrawal operations is to cover 100 % of the quantity of the products withdrawn from the market, with the exception of products intended for free distribution, for which pursuant to Article 29(3) of that Regulation Member States could check a smaller percentage, but not less than 10 % of the quantities concerned during the marketing year of any given producer organisation. Due to the measures put in place to address the pandemic of COVID-19, Member States may not be able to meet this requirement and should be allowed in the year 2021 to check a smaller percentage, but not less than 10 % of the quantities concerned during the marketing year of any given producer organisation also for all other withdrawn products, irrespective of their intended destination.
- (12) Article 30(3) of Implementing Regulation (EU) 2017/892 provides that each check is to include a sample representing at least 5 % of the quantities withdrawn by the producer organisation during the marketing year. Due to the measures put in place to address the pandemic of COVID-19, Member States may not be able to meet this requirement and should be allowed in the year 2021 to use samples representing at least 3 % of the quantities withdrawn by the producer organisation during the marketing year 2020.
- (13) Due to the measures put in place to address the pandemic of COVID-19, it will continue to be materially impossible for Member States to carry out in 2021 systematic and sample-based on-the-spot checks for annual aid applications, first and second level checks on withdrawal operations and checks on green harvesting and non-harvesting as set out in Articles 27(7), 29(2), 30(3) and 31(1) and (2) of Implementing Regulation (EU) 2017/892 respectively. Therefore, it should be allowed for Member States to define checks that are equivalent to systematic on-the-spot checks, such as geotagged photos, dated photographs, dated drone surveillance reports, administrative checks or videoconferences with the beneficiaries.

⁽⁷⁾ Commission Implementing Regulation (EU) No 180/2014 of 20 February 2014 laying down rules for the application of Regulation (EU) No 228/2013 of the European Parliament and of the Council laying down specific measures for agriculture in the outermost regions of the Union (OJ L 63, 4.3.2014, p. 13).

⁽⁸⁾ Commission Implementing Regulation (EU) No 181/2014 of 20 February 2014 laying down rules for the application of Regulation (EU) No 229/2013 of the European Parliament and of the Council laying down specific measures for agriculture in favour of the smaller Aegean islands (OJ L 63, 4.3.2014, p. 53).

⁽⁹⁾ Commission Implementing Regulation (EU) 2017/892 of 13 March 2017 laying down rules for the application of 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 (OJ L 138, 25.5.2017, p. 57).

- (14) Due to the measures put in place to address the pandemic of COVID-19, it has been and will be materially impossible for Member States to carry out in 2020 and 2021 respectively, systematic and sample-based on-the-spot checks for operations supported under Articles 45 to 52 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council ⁽¹⁰⁾. Therefore, a derogation from Articles 32(1) and 42(3) of Commission Implementing Regulation (EU) 2016/1150 ⁽¹¹⁾ was introduced for financial year 2020 and should be maintained in respect of financial year 2021 to allow Member States to define controls that are equivalent to systematic on-the-spot checks, such as dated photographs, dated drone surveillance reports, administrative checks or videoconferences with the beneficiaries, and guarantee that the rules of the legislation relating to the support programmes in the wine sector are respected before payments are made.
- (15) It is also going to be materially impossible for Member States to carry out in respect of financial year 2021, within the deadline set by Article 43(3) of Implementing Regulation (EU) 2016/1150, systematic on-the-spot checks for green harvesting operations supported under Article 47 of Regulation (EU) No 1308/2013. Therefore, a derogation should be introduced to postpone the completion of the checks until 15 September 2021.
- (16) Article 27(3) of Commission Implementing Regulation (EU) 2018/274 ⁽¹²⁾ fixes the number of samples of fresh grapes to be taken from vineyards during the period when the plot in question is harvested for the establishment of the analytical databank of isotopic data referred to in Article 39 of Commission Delegated Regulation (EU) 2018/273 ⁽¹³⁾. In cases where the measures put in place to address the pandemic of COVID-19 prevent Member States from carrying out such checks, Member States should be allowed to derogate from the minimum number of samples.
- (17) Article 31(2), point (b), of Implementing Regulation (EU) 2018/274 provides that Member States are to carry out yearly on-the-spot checks on at least 5 % of all wine growers identified in the vineyard register. As the measures put in place to address the pandemic of COVID-19 prevent such checks in several wine producing Member States over a long period of time, this percentage should be reduced for the year 2021. For the same reason, Member States should be allowed to temporarily suspend in the year 2021 the systematic on-the-spot checks referred to in Article 31(2), point (c), of that Regulation which are to be carried out in areas planted with vines which are not included in any wine grower file.
- (18) Commission Implementing Regulation (EU) No 615/2014 ⁽¹⁴⁾ with regard to work programmes to support the olive oil and table olives sectors contains rules on on-the-spot checks to verify that the conditions for granting Union financing are met. The measures put in place to address the pandemic of COVID-19 may lead to difficulties in carrying out those checks as required by Article 6 of that Regulation. It is therefore appropriate to provide flexibility to the Member States by allowing the substitution of on-the-spot checks in calendar year 2021 by alternative checks.

⁽¹⁰⁾ 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).

⁽¹¹⁾ Commission Implementing Regulation (EU) 2016/1150 of 15 April 2016 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the national support programmes in the wine sector (OJ L 190, 15.7.2016, p. 23).

⁽¹²⁾ Commission Implementing Regulation (EU) 2018/274 of 11 December 2017 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, certification, the inward and outward register, compulsory declarations and notifications, and of Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks, and repealing Commission Implementing Regulation (EU) 2015/561 (OJ L 58, 28.2.2018, p. 60).

⁽¹³⁾ Commission Delegated Regulation (EU) 2018/273 of 11 December 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, the vineyard register, accompanying documents and certification, the inward and outward register, compulsory declarations, notifications and publication of notified information, and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks and penalties, amending Commission Regulations (EC) No 555/2008, (EC) No 606/2009 and (EC) No 607/2009 and repealing Commission Regulation (EC) No 436/2009 and Commission Delegated Regulation (EU) 2015/560 (OJ L 58, 28.2.2018, p. 1).

⁽¹⁴⁾ Commission Implementing Regulation (EU) No 615/2014 of 6 June 2014 laying down detailed rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council and Regulation (EU) No 1308/2013 of the European Parliament and of the Council in respect of work programmes to support the olive oil and table olives sectors (OJ L 168, 7.6.2014, p. 95).

- (19) Commission Implementing Regulation (EU) 2015/1368 ⁽¹⁵⁾ with regard to aid in the apiculture sector contains rules on the monitoring and checks in relation to the correct implementation of the national apiculture programmes, the actual expenditure incurred and the correct number of beehives reported by beekeepers. According to Article 8(3) of that Regulation, Member States are to ensure that at least 5 % of the applicants for aid within the framework of their apiculture programmes are subject to on-the-spot checks. The measures put in place to address the pandemic of COVID-19 may lead to difficulties in carrying out the number of on-the-spot checks needed to fulfil that threshold. It is therefore appropriate to provide flexibility to the Member States by allowing for a derogation from that requirement. Such derogation should however not result in an increase of the risk for undue payments. Therefore, any lowering of the number of on-the-spot checks should be replaced as much as possible by alternative controls.
- (20) As the measures provided for in this Regulation are necessary for Member States to organise control campaigns while respecting the measures put in place to address the pandemic of the COVID-19, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union* and apply retroactively to cover the full length of the respective control campaigns: the measures in Chapters I and II and Chapter III, Sections 3 and 4, should apply from 1 January 2021, corresponding to claim year in the integrated administration and control system or to calendar year for non-area and non-animal related rural development support measures and measures in the wine sector; the measures in Chapter III, Sections 1 and 2, should apply from 16 October 2020, corresponding to the financial year and the measures in Chapter III, Section 5, should apply from 1 August 2020, corresponding to the apiculture year.
- (21) The measures provided for in this Regulation are in accordance with the opinion of the Committee on the Agricultural Funds, the Committee for Direct Payments, the Rural Development Committee and the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

CHAPTER I

DEROGATIONS FROM IMPLEMENTING REGULATION (EU) No 809/2014

Article 1

By way of derogation from Articles 24(4), 48(5), 49(1), 52(1), Article 60(2), third subparagraph, and Article 71(3) of Implementing Regulation (EU) No 809/2014, due to the measures put in place to address the pandemic of COVID-19, for checks to be carried out in respect of claim year 2021 or calendar year 2021 respectively, Member States may decide to fully substitute the physical inspections to be carried out under that Regulation, in particular field visits and on-the-spot checks, by the use of photo-interpretation of satellite or aerial ortho-images or the use of new technologies such as geotagged photos or other relevant evidence including documentary evidence provided by the beneficiary at the request of the competent authority, which could permit definitive conclusions to be drawn to the satisfaction of the competent authority.

If the visits to the operation supported or the investment site referred to in Article 48(5) of Implementing Regulation (EU) No 809/2014 cannot be substituted by relevant documentary evidence, Member States shall carry out those visits after the final payment is effected.

Article 2

By way of derogation from Articles 26(4) and 42(1) of Implementing Regulation (EU) No 809/2014, where due to the measures put in place to address the pandemic of COVID-19 Member States are not in a position to carry out on-the-spot checks within the timeframe required by those provisions, and the alternative methods including the use of new

⁽¹⁵⁾ Commission Implementing Regulation (EU) 2015/1368 of 6 August 2015 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to aid in the apiculture sector (OJ L 211, 8.8.2015, p. 9).

technologies cannot provide the necessary evidence, Member States may decide to carry out those checks in respect of claim year 2021 or calendar year 2021 respectively at any time of the year, in so far that they still allow the checking of the eligibility conditions.

Article 3

1. Where due to the measures put in place to address the pandemic of COVID-19, Member States are not in a position to carry out on-the-spot checks in claim year 2021 or calendar year 2021 respectively, in accordance with the requirements set out in Articles 30 to 33, 35, Article 40a(1), first subparagraph, point (c), Article 40a(2), point (b), Article 50(1), first subparagraph, Article 50(5), Article 52(2), Article 60(2), third subparagraph, Article 68(1), first subparagraph, and Article 68(4) of Implementing Regulation (EU) No 809/2014, Member States may decide to apply the rules set out in paragraphs 2 to 13 respectively of this Article.

2. By way of derogation from Article 30 of Implementing Regulation (EU) No 809/2014, in claim year 2021, the control rate shall be at least:

- (a) 3 % of all beneficiaries applying for the basic payment scheme or the single area payment scheme;
- (b) 3 % of all beneficiaries applying for the redistributive payment;
- (c) 3 % of all beneficiaries applying for the payment for areas with natural constraints;
- (d) 3 % of all beneficiaries applying for the payment for young farmers;
- (e) 3 % of all beneficiaries applying for area-related payments under voluntary coupled support;
- (f) 3 % of all beneficiaries applying for the payment under the small farmers scheme;
- (g) 10 % of the areas declared for the production of hemp;
- (h) 3 % of all beneficiaries applying for the crop specific payment for cotton.

Member States that have already decided to reduce the control rates for certain schemes to 3 % in accordance with Article 36 of Implementing Regulation (EU) No 809/2014, may further reduce the percentages set out for those schemes in this paragraph to 1 %.

3. By way of derogation from Article 31 of Implementing Regulation (EU) No 809/2014, in claim year 2021, the control rate shall be at least:

- (a) 3 % of all beneficiaries required to observe the agricultural practices beneficial for the climate and the environment;
- (b) 1 % of:
 - (i) either all beneficiaries qualifying for the greening payment who are exempted from both the crop diversification and the ecological focus area obligations by not meeting the thresholds referred to in Articles 44 and 46 of Regulation (EU) No 1307/2013 and who are not concerned by the obligations referred to in Article 45 of that Regulation;
 - (ii) or in the years where Article 44 of Commission Delegated Regulation (EU) No 639/2014 ⁽¹⁶⁾ does not apply in a Member State, the beneficiaries qualifying for the greening payment who are exempted from both the crop diversification and the ecological focus area obligations by not meeting the thresholds referred to in Articles 44 and 46 of Regulation (EU) No 1307/2013 and who are not concerned by the obligation referred to in Article 45(1) of that Regulation;
- (c) 3 % of all beneficiaries required to observe the greening practices and using national or regional environmental certification schemes as referred to in Article 43(3), point (b), of Regulation (EU) No 1307/2013.

⁽¹⁶⁾ Commission Delegated Regulation (EU) No 639/2014 of 11 March 2014 supplementing Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and amending Annex X to that Regulation (OJ L 81, 20.6.2014, p. 1).

The control rate referred to in the first subparagraph, point (a), shall, at the same time, cover at least 3 % of all beneficiaries having areas covered with permanent grasslands that are environmentally sensitive in areas covered by Council Directive 92/43/EEC ⁽¹⁷⁾ or Directive 2009/147/EC of the European Parliament and of the Council ⁽¹⁸⁾ and further sensitive areas referred to in Article 45(1) of Regulation (EU) No 1307/2013.

4. By way of derogation from Article 32 of Implementing Regulation (EU) No 809/2014, in claim year 2021, the control rate shall be at least:

(a) 3 % of all beneficiaries applying for rural development measures;

(b) 3 % of all collectives submitting a collective claim.

The control rate referred to in the first subparagraph, point (a), for the measures provided for in Articles 28 and 29 of Regulation (EU) No 1305/2013 of the European Parliament and of the Council ⁽¹⁹⁾, the control rate of 3 % shall be achieved at the level of the individual measure.

5. By way of derogation from Article 33 of Implementing Regulation (EU) No 809/2014, in claim year 2021, the control rate shall be at least 3 % of all beneficiaries applying for animal aid schemes covering at least 3 % of animals.

6. By way of derogation from Article 35 of Implementing Regulation (EU) No 809/2014, Member States may decide to postpone the increase of the control rate that should have been applied in claim year 2021 for the aid schemes and support measures referred to in paragraphs 2 to 5 of this Article and replace it with a corresponding increase in respect of claim year 2022.

7. By way of derogation from Article 40a(1), first subparagraph, point (c), first sentence, of Implementing Regulation (EU) No 809/2014, the relevant checks relating to the eligibility criteria, commitments and other obligations shall be carried out for at least 3 % of the beneficiaries concerned.

8. By way of derogation from Article 40a(2), point (b), of Implementing Regulation (EU) No 809/2014, the verifications of tetrahydrocannabinol content in hemp shall be made for at least 10 % of the area.

9. By way of derogation from Article 50(1), first subparagraph and Article 60(2), third subparagraph, of Implementing Regulation (EU) No 809/2014, in calendar year 2021, the rate of checks shall be at least 3 %.

10. By way of derogation from Article 50(5) of Implementing Regulation (EU) No 809/2014, Member States may decide to postpone the increase of the control rate that should have been applied in calendar year 2021 and replace it with a corresponding increase in respect of calendar year 2022.

11. By way of derogation from Article 52(2) of Implementing Regulation (EU) No 809/2014, the control rate, in calendar year 2021, for *ex post* checks shall be at least 0,6 %.

12. By way of derogation from Article 68(1), first subparagraph, of Implementing Regulation (EU) No 809/2014, the minimum control rate, in claim year 2021, for cross-compliance shall be 0,5 %.

13. By way of derogation from Article 68(4) of Implementing Regulation (EU) No 809/2014, Member States may decide to postpone the increase in control rates that should have been applied in claim year 2021 and replace it with a corresponding increase in respect of claim year 2022.

⁽¹⁷⁾ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

⁽¹⁸⁾ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

⁽¹⁹⁾ 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).

Article 4

For Member States applying Articles 1, 2 and 3, the management declaration to be drawn up pursuant to Article 7(3), first subparagraph, point (b), of Regulation (EU) No 1306/2013 shall include for financial years 2021 and 2022 a confirmation that overpayments to beneficiaries were prevented and the recovery of undue amounts has been instigated based on the verification of all necessary information.

CHAPTER II

DEROGATIONS FROM THE SPECIFIC MEASURES IN FAVOUR OF THE OUTERMOST REGIONS OF THE UNION AND THE SMALLER AEGEAN ISLANDS

SECTION 1

Derogations from Implementing Regulation (EU) No 180/2014

Article 5

1. By way of derogation from Article 16(2) of Implementing Regulation (EU) No 180/2014, where due to the measures put in place to address the pandemic of COVID-19 Member States are not in a position to carry out physical checks in the outermost regions in accordance with the rules set out in that provision, in the year 2021 Member States may decide to organise physical checks in accordance with the rules set out in paragraph 2 of this Article.
2. The physical checks carried out in the outermost region concerned on the import, entry, export and dispatch of agricultural products shall involve a representative sample amounting to at least 3 % of the licences and certificates presented in accordance with Article 9 of Implementing Regulation (EU) No 180/2014.
3. By way of derogation from Article 22 of Implementing Regulation (EU) No 180/2014, where due to the measures put in place to address the pandemic of COVID-19 Member States are not in a position to carry out on-the-spot checks in the outermost regions in accordance with the rules set out in that Article, in the year 2021 Member States may decide to organise on-the-spot checks in accordance with the rules set out in paragraph 4 of this Article.
4. On the basis of a risk analysis carried out in accordance with Article 24(1) of Implementing Regulation (EU) No 180/2014, the competent authorities shall perform on-the-spot checks by sampling at least 3 % of aid applications. The sample shall also represent at least 3 % of the amounts covered by the aid for each action.
5. By way of derogation from Article 16(2) and Article 22 of Implementing Regulation (EU) No 180/2014, where due to the measures put in place to address the pandemic of COVID-19 Member States are not in a position to carry out on-the-spot checks in respect of the specific measures in favour of the outermost regions in accordance with the rules set out in those provisions for the year 2021, Member States may decide:
 - (a) to substitute on-the-spot checks by the use of new technologies, including geotagged photos, dated photographs, dated drone surveillance reports, videoconferences with the beneficiaries or any relevant documentary evidence that could serve as support when verifying the correct implementation of the measures;
 - (b) to carry those checks at any time of the year, in so far that they still allow the checking of the eligibility conditions, including after the final payment is effected.
6. By way of derogation from Article 59(5) of Regulation (EU) No 1306/2013, Member States may decide to postpone the increase of the control rate that should have been applied in claim year 2021 for the aid schemes and support measures referred to in paragraphs 1 to 5 of this Article and replace it with a corresponding increase in respect of claim year 2022.

SECTION 2

Derogations from Implementing Regulation (EU) No 181/2014*Article 6*

1. By way of derogation from Article 13(2) of Implementing Regulation (EU) No 181/2014, where due to the measures put in place to address the pandemic of COVID-19 Greece is not in a position to carry out physical checks in accordance with the rules set out in that provision, in the year 2021 Greece may decide to organise physical checks in accordance with the rules set out in paragraph 2 of this Article.
2. The physical checks carried out in the smaller Aegean islands on the entry of agricultural products shall involve a representative sample amounting to at least 3 % of the certificates presented in accordance with Article 7 of Implementing Regulation (EU) No 181/2014. The physical checks carried out in the smaller Aegean islands on the export or dispatch provided for in Section 3 of that Regulation shall involve a representative sample of at least 3 % of the operations, based on the risk profiles established by Greece.
3. By way of derogation from Article 20 of Implementing Regulation (EU) No 181/2014, where due to the measures put in place to address the pandemic of COVID-19 Greece is not in a position to carry out on-the-spot checks in accordance with the rules set out in that Article, in the year 2021 Greece may decide to organise on-the-spot checks in accordance with the rules set out in paragraph 4 of this Article.
4. On the basis of a risk analysis in accordance with Article 22(1) of Implementing Regulation (EU) No 181/2014, the competent authorities shall perform on-the-spot checks by sampling, for each action, at least 3 % of aid applications. The sample shall also represent at least 3 % of the amounts covered by the aid for each action.
5. By way of derogation from Article 13(2) and Article 20 of Implementing Regulation (EU) No 181/2014, where due to the measures put in place to address the pandemic of COVID-19 Greece is not in a position to carry out on-the-spot checks in respect of the specific measures in favour of the smaller Aegean islands in accordance with the rules set out in those provisions for the year 2021, Greece may decide:
 - (a) to substitute on-the-spot checks by the use of new technologies, including geotagged photos, dated photographs, dated drone surveillance reports, videoconferences with the beneficiaries or any relevant documentary evidence that could serve as support when verifying the correct implementation of the measures;
 - (b) to carry those checks at any time of the year, in so far that they still allow the checking of the eligibility conditions, including after the final payment is effected.
6. By way of derogation from Article 59(5) of Regulation (EU) No 1306/2013, Greece may decide to postpone the increase of the control rate that should have been applied in claim year 2021 for the aid schemes and support measures referred to in paragraphs 1 to 5 of this Article and replace it with a corresponding increase in respect of claim year 2022.

CHAPTER III

DEROGATIONS FROM RULES IMPLEMENTING THE COMMON ORGANISATION OF THE MARKETS

SECTION 1

Derogations from Implementing Regulation (EU) 2017/892*Article 7*

1. By way of derogation from Article 24 of Implementing Regulation (EU) 2017/892, on-the-spot-checks regarding recognition criteria shall not apply for the year 2021.

2. By way of derogation from Article 27(2) of Implementing Regulation (EU) 2017/892:
 - (a) in the year 2021, the on-the-spot checks referred to in Article 27 of that Regulation shall relate to a sample representing at least 10 % of the total aid applied for the year 2020;
 - (b) the rule that each producer organisation or association of producer organisations implementing an operational programme shall be visited at least once every 3 years shall not apply for the on-the-spot-checks conducted in the year 2021.
3. By way of derogation from Article 27(7) of Implementing Regulation (EU) 2017/892, the rule that actions on individual holdings of members of producer organisations covered by the sample referred to in Article 27(2) of that Regulation shall be subject of at least one visit to the place where the action is implemented to verify its execution shall not apply for the on-the-spot-checks conducted in the year 2021. Such visits may be replaced by other types of checks to be defined by Member States, such as geotagged photos, dated photographs, dated drone surveillance reports, administrative checks or videoconferences with the beneficiaries.
4. By way of derogation from Article 29(2) of Implementing Regulation (EU) 2017/892, in the year 2021, Member States may check for all withdrawn products, irrespective of their intended destination, a smaller percentage than that laid down in that provision, provided it is not less than 10 % of the quantities concerned during the marketing year of any given producer organisation. The check may take place at the premises of the producer organisation or at the sites of the recipients of the products. In the event that the checks reveal irregularities, Member States shall carry out additional checks. Such checks may be replaced by other types of checks to be defined by Member States, such as geotagged photos, dated photographs, dated drone surveillance reports, administrative checks or videoconferences with the beneficiaries.
5. By way of derogation from Article 30(3) of Implementing Regulation (EU) 2017/892, in the year 2021, each check shall include a sample representing at least 3 % of the quantities withdrawn by the producer organisation during the marketing year 2020. Such checks may be replaced by other types of checks to be defined by Member States, such as geotagged photos, dated photographs, dated drone surveillance reports, administrative checks or videoconferences with the beneficiaries.
6. By way of derogation from Article 31(1) and (2) of Implementing Regulation (EU) 2017/892, in the year 2021, the on-the-spot-checks may be replaced by other types of checks to be defined by Member States, such as geotagged photos, dated photographs, dated drone surveillance reports, administrative checks or videoconferences with the beneficiaries.

SECTION 2

Derogations from Implementing Regulation (EU) 2016/1150

Article 8

1. By way of derogation from Articles 32(1) and 42(3) of Implementing Regulation (EU) 2016/1150, during the financial year 2021, where the measures put in place to address the pandemic of COVID-19 prevent Member States from carrying out on-the-spot checks in accordance with those provisions, such checks may be replaced by other types of controls to be defined by Member States, such as dated photographs, dated drone surveillance reports, administrative checks or videoconferences with the beneficiaries, guaranteeing that the rules relating to the support programmes in the wine sector are respected.
2. By way of derogation from Article 43(3) of Implementing Regulation (EU) 2016/1150, during the financial year 2021, where the measures put in place to address the pandemic of COVID-19 prevent Member States from carrying out on-the-spot checks in accordance with that provision, such checks on green harvesting operations shall take place by 15 September 2021.

SECTION 3

Derogations from Implementing Regulation (EU) 2018/274*Article 9*

1. By way of derogation from Article 27(3) of Implementing Regulation (EU) 2018/274, where the measures put in place to address the pandemic of COVID-19 prevent Member States during the period of the grape harvest in the year 2021 from collecting and processing fresh grapes to the extent of the number of samples set out in Part II of Annex III to that Regulation, Member States may derogate from that number of samples.
2. By way of derogation from Article 31(2), point (b), of Implementing Regulation (EU) 2018/274, where the measures put in place to address the pandemic of COVID-19 prevent Member States from carrying out on-the-spot checks in the year 2021 in accordance with that provision, Member States shall carry out such checks on at least 3 % of all wine growers identified in the vineyard register.
3. By way of derogation from Article 31(2), point (c), of Implementing Regulation (EU) 2018/274, Member States may in the year 2021 temporarily suspend systematic on-the-spot checks carried out in areas planted with vines which are not included in any wine grower file, in cases where the measures put in place to address the pandemic of COVID-19 prevent Member States from carrying out such checks.

SECTION 4

Derogation from Implementing Regulation (EU) No 615/2014*Article 10*

By way of derogation from Article 6 of Implementing Regulation (EU) No 615/2014, where the measures put in place to address the pandemic of COVID-19 prevent Member States to carry out in due time the on-the-spot checks in calendar year 2021, Member States may decide to partially or fully substitute on-the-spot checks by administrative checks or by the use of relevant evidence, including geotagged photos, video conversations or other evidence in electronic format.

SECTION 5

Derogation from Implementing Regulation (EU) 2015/1368*Article 11*

By way of derogation from Article 8(3) of Implementing Regulation (EU) 2015/1368, during apiculture year 2021 Member States may decide to deviate from the 5 % threshold regarding on-the-spot checks of applicants for aid within the framework of their apiculture programme provided that they replace the planned on-the-spot checks by alternative checks via requesting photographs, via video conversations or through any other means that could serve as support when verifying the correct implementation of the measures included in the apiculture programme.

CHAPTER IV

FINAL PROVISIONS*Article 12*

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

Chapters I and II and Chapter III, Sections 3 and 4, shall apply from 1 January 2021.

Chapter III, Sections 1 and 2, shall apply from 16 October 2020.

Chapter III, Section 5, shall apply from 1 August 2020.

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

Done at Brussels, 4 May 2021.

For the Commission
The President
Ursula VON DER LEYEN
