COMMISSION IMPLEMENTING REGULATION (EU) 2022/246

of 13 December 2021

amending Implementing Regulation (EU) 2017/39 as regards the aid applications, payment of the aid and on-the-spot checks

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 25, point (b), thereof,

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 ([2]), and in particular Article 62(2), point (a), thereof,

Whereas:

(1) Article 4(6) of Commission Implementing Regulation (EU) 2017/39 ([3]) lays down that the amounts claimed in the aid applications are to be supported by documentary evidence showing the price of the products, material or services delivered together with a receipt or proof of payment or equivalent. The price of the product, material or service is not pertinent where a simplified cost option is used, and is not consistent with the objectives of simplification and reduction of the administrative burden of simplified cost options. Therefore, it is appropriate to lay down different requirements for cost-based systems and simplified cost options.

(2) Article 5 of Implementing Regulation (EU) 2017/39 lays down the conditions for the payment of aid. The required documentary evidence includes, in case of simplified cost options, the proof of payment for the products supplied and/or distributed and for the material or services delivered under the accompanying educational measures, monitoring, and evaluation and publicity activities. However, such documentary evidence is not required in case of cost-based systems. Experience gained shows that such a requirement is not pertinent for the payment of the aid, regardless of whether a cost-based system or a simplified cost option is used, and is not consistent with the objectives of simplification and reduction of the administrative burden through simplified cost options. Therefore, this requirement should be removed.

(3) In accordance with Article 9(4) of Implementing Regulation (EU) 2017/39, in case of aid applied for relating to the supply and distribution of products and accompanying educational measures, the administrative checks are to be supplemented by on-the-spot checks. Article 10(1) of that Regulation lays down a non-exhaustive list of verifications that the on-the-spot checks are to include in case of aid for the supply and distribution of products. In light of the experience gained, and in the interest of clarity, this non-exhaustive list of verifications to be carried out should be complemented, both for on-the-spot checks in case of aid applied for the supply and distribution of products as well as for accompanying educational measures.

(4) Implementing Regulation (EU) 2017/39 should therefore be amended accordingly.

([1]) OJ L 347, 20.12.2013, p. 671.
([2]) OJ L 347, 20.12.2013, p. 549.
([3]) Commission Implementing Regulation (EU) 2017/39 of 3 November 2016 on rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply of fruit and vegetables, bananas and milk in educational establishments (OJ L 5, 10.1.2017, p. 1).

(5) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2017/39 is amended as follows:

(1) in Article 4(6), the first subparagraph is replaced by the following:

'Member States shall specify the documents that shall be submitted in support of aid applications. The amounts claimed in the aid applications shall be supported by documentary evidence showing:

(a) the price of the products, material or service delivered together with a receipt or proof of payment or equivalent; or

(b) if the Member State authorises the use of standard scales of unit costs, flat-rate financing and/or lump sums, that the quantities have been supplied and/or distributed for the purpose of the school scheme.';

(2) Article 5 is amended as follows:

(a) in paragraph 1, point (b) is replaced by the following:

'(b) if the Member State authorises the use of standard scales of unit costs, flat-rate financing and/or lump sums, on presentation of evidence that the quantities have been supplied and/or distributed for the purpose of the school scheme.';

(b) paragraph 2 is replaced by the following:

'2. Aid relating to the accompanying educational measures, monitoring, evaluation and publicity shall only be paid upon delivery of the material or services concerned and upon submission of the related documentary evidence as required by the competent authority or, if the Member State authorises the use of standard scales of unit costs, flat-rate financing and/or lump sums, on presentation of evidence that the material or services have been delivered.';

(3) in Article 10, paragraph 1 is replaced by the following:

'1. On-the spot checks shall in particular include verification of:

(a) the records referred to in Article 6 of Delegated Regulation (EU) 2017/40, by corroborating and complementing the administrative checks with relevant documentation including financial documents such as purchase and sales invoices, delivery notes, bank extracts or other proof of payment and their recording in the accountancy;

(b) the use of the products in accordance with Regulation (EU) No 1308/2013, Delegated Regulation (EU) 2017/40 and this Regulation;

(c) the implementation of accompanying educational measures to support the distribution of products, where the on-the-spot check takes place at the premises of the educational establishment or where the on-the-spot check concerns aid applied for relating to accompanying educational measures;

(d) the use of suitable publicity tools, where the on-the-spot check takes place at the premises of the educational establishment.'.

Article 2

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

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

Done at Brussels, 13 December 2021.

For the Commission
The President
Ursula VON DER LEYEN