

COMMISSION DELEGATED REGULATION (EU) 2021/1336
of 2 June 2021
amending Delegated Regulation (EU) No 907/2014 as regards financial management

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 40 and Article 46(1) thereof,

Whereas:

- (1) Article 40, first paragraph, of Regulation (EU) No 1306/2013 provides that any payments made by the paying agencies of the Member States to the beneficiaries before the earliest possible date of payment and after the latest possible date of payment are ineligible for Union financing, except in certain cases.
- (2) Articles 5 and 5a of Commission Delegated Regulation (EU) No 907/2014 ⁽²⁾ lay down the conditions under which, in accordance with the principle of proportionality, expenditure effected after the payment deadlines is considered eligible for Union payments.
- (3) Paragraph 3a was inserted in Article 5 of Delegated Regulation (EU) No 907/2014 by Commission Delegated Regulation (EU) 2015/160 ⁽³⁾ in order to provide legal certainty and to clarify the conditions that applied to direct payments made in financial year 2015 pursuant to Council Regulation (EC) No 73/2009 ⁽⁴⁾. That provision is obsolete and can therefore be deleted.
- (4) Checks on compliance with the latest payment deadline are to be carried out both for payments under the European Agricultural Guarantee Fund ('EAGF') and payments under the European Agricultural Fund for Rural Development ('EAFRD'). However, the checks on compliance with the payment deadlines for the EAGF are carried out twice per financial year, namely on the expenditure effected by 31 July and the remaining expenditure effected by 15 October, while compliance with the payment deadline for the EAFRD is checked once per financial year in respect of all payments made for that financial year.
- (5) For reasons of simplicity and efficiency and in order to decrease the administrative burden for Member States and the Commission, one single check on compliance with the payment deadlines for the entire financial year should also be laid down as regards the EAGF expenditure. That check should be carried out on expenditure effected by 15 October. However, where a non-compliance with payment deadlines is encountered in the context of the expenditure declarations, it should be possible for the Commission to carry out an additional check on the expenditure effected by 31 July.

⁽¹⁾ OJ L 347, 20.12.2013, p. 549.

⁽²⁾ Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro (OJ L 255, 28.8.2014, p. 18).

⁽³⁾ Commission Delegated Regulation (EU) 2015/160 of 28 November 2014 amending Delegated Regulation (EU) No 907/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro (OJ L 27, 3.2.2015, p. 7).

⁽⁴⁾ Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ L 30, 31.1.2009, p. 16).

- (6) Regulation (EU) 2020/2220 of the European Parliament and of the Council ⁽⁵⁾ amended Regulation (EU) No 1305/2013 of the European Parliament and of the Council ⁽⁶⁾ and extended the period of duration of rural development programmes supported by the EAFRD until 31 December 2022, while providing Member States with the possibility to finance their extended programmes from the corresponding budget allocation for the years 2021 and 2022. Moreover, Regulation (EU) 2020/2220 made the additional resources from the European Union Recovery Instrument ('EURI') available in the extended programmes in the years 2021 and 2022 to fund measures under Regulation (EU) No 1305/2013 with the objective to address the impact of the COVID-19 crisis and its consequences for the Union agricultural sector and rural areas.
- (7) As set out in recital (24) of Regulation (EU) 2020/2220, the additional resources from the EURI are subject to specific conditions. Those additional resources should thus be programmed and monitored separately from the Union support for rural development, while applying, in general, the rules set out in Regulation (EU) No 1305/2013. Hence, those additional resources should be implemented through Regulation (EU) No 1305/2013 and considered in the framework of that Regulation as amounts that finance measures under the EAFRD. As a consequence, the respective rules on the thresholds and reductions laid down in Article 5a of Delegated Regulation (EU) No 907/2014 should be calculated separately in relation to the EAFRD allocations and in relation to the additional resources referred to in Article 58a of Regulation (EU) No 1305/2013.
- (8) Pursuant to Delegated Regulation (EU) No 907/2014, the Commission is to make payments at monthly or other regular intervals to the Member States on the basis of declarations of expenditure sent by the latter. By doing so, the Commission should, however, take into account the revenue received by the paying agencies on behalf of the Union's budget, and declared by the Member States in their monthly declarations. Currently under the EAGF, the Commission is netting off the expenditure amounts against the assigned revenue amounts directly in the monthly payment decision issued by the Commission. This financial operation derogates from the way assigned revenue is managed under other Union Funds, where it is not netted off but recovered via a recovery order drawn up pursuant to Article 98 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁷⁾. In order to harmonise the Commission's accounting practices and, in particular, the way assigned revenue is managed, it is necessary to align this technical aspect of the financial management of the EAGF with the flow used by other Union Funds. The conditions under which the assigned revenue effected under the EAGF is to be offset, should therefore be amended accordingly, without putting at risk the timely execution of the payments to the Member States.
- (9) Delegated Regulation (EU) No 907/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) No 907/2014 is amended as follows:

- (1) Article 5 is amended as follows:

(a) paragraph 3a is deleted;

- ⁽⁵⁾ Regulation (EU) 2020/2220 of the European Parliament and of the Council of 23 December 2020 laying down certain transitional provisions for support from the European Agricultural Fund for Rural Development (EAFRD) and from the European Agricultural Guarantee Fund (EAGF) in the years 2021 and 2022 and amending Regulations (EU) No 1305/2013, (EU) No 1306/2013 and (EU) No 1307/2013 as regards resources and application in the years 2021 and 2022 and Regulation (EU) No 1308/2013 as regards resources and the distribution of such support in respect of the years 2021 and 2022 (OJ L 437, 28.12.2020, p. 1).
- ⁽⁶⁾ 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).
- ⁽⁷⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

(b) paragraph 5 is replaced by the following:

'5. Checks on compliance with the payment deadlines shall be made once each financial year on the expenditure effected by 15 October. In case non-compliance with payment deadlines is encountered in the context of the monthly expenditure declarations, an additional check on compliance with the payment deadlines may be made on the expenditure effected by 31 July.

Any overrun of payment deadlines shall be taken into account, at the latest, in the accounts clearance decision referred to in Article 51 of Regulation (EU) No 1306/2013.;

(2) in Article 5a, the following paragraph is added:

'7. The thresholds and reductions referred to in paragraphs 2 and 3 shall be calculated separately in relation to the European Agricultural Fund for Rural Development allocations, without the additional resources referred to in Article 58a of Regulation (EU) No 1305/2013, and in relation to those additional resources.;

(3) in Article 7, paragraph 1 is replaced by the following:

'1. In its decision on the monthly payments to be adopted pursuant to Article 18(3) of Regulation (EU) No 1306/2013, the Commission shall pay the balance of the expenditure declared by each Member State in its monthly declaration, less the assigned revenue which that Member State has included in its declarations of expenditure. This set-off shall be regarded as equivalent to collection of the corresponding revenue.

Commitment appropriations and payment appropriations generated by assigned revenue shall be open once this revenue has been assigned to budget lines.'

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, 2 June 2021.

For the Commission
The President
Ursula VON DER LEYEN
