

# Official Journal of the European Union

# L 165



English edition

## Legislation

Volume 64

11 May 2021

Contents

### I *Legislative acts*

#### REGULATIONS

- ★ **Council Regulation (EU, Euratom) 2021/768 of 30 April 2021 laying down implementing measures for the system of own resources of the European Union and repealing Regulation (EU, Euratom) No 608/2014** ..... 1

### II *Non-legislative acts*

#### REGULATIONS

- ★ **Council Regulation (EU, Euratom) 2021/769 of 30 April 2021 amending Regulation (EEC, Euratom) No 1553/89 on the definitive uniform arrangements for the collection of own resources accruing from value added tax** ..... 9
- ★ **Council Regulation (EU, Euratom) 2021/770 of 30 April 2021 on the calculation of the own resource based on plastic packaging waste that is not recycled, on the methods and procedure for making available that own resource, on the measures to meet cash requirements, and on certain aspects of the own resource based on gross national income** ..... 15
- ★ **Commission Delegated Regulation (EU) 2021/771 of 21 January 2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council by laying down specific criteria and conditions for the checks of documentary accounts in the framework of official controls in organic production and the official controls of groups of operators <sup>(1)</sup>** ..... 25
- ★ **Commission Implementing Regulation (EU) 2021/772 of 10 May 2021 amending Implementing Regulation (EU) 2020/977 as regards the temporary measures in relation to controls on the production of organic products, in particular the period of application <sup>(1)</sup>** ..... 28

<sup>(1)</sup> Text with EEA relevance.

# EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.



## I

(Legislative acts)

## REGULATIONS

**COUNCIL REGULATION (EU, Euratom) 2021/768**

**of 30 April 2021**

**laying down implementing measures for the system of own resources of the European Union and  
repealing Regulation (EU, Euratom) No 608/2014**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the fourth paragraph of Article 311 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom <sup>(1)</sup>, and in particular Article 10 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the consent of the European Parliament <sup>(2)</sup>,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) The procedure for calculating and budgeting the annual budgetary balance, the provisions and arrangements necessary for controlling and supervising the collection of own resources and any relevant reporting requirements are important components of the system of own resources of the Union which complement in a more detailed manner the provisions of Decision (EU, Euratom) 2020/2053.
- (2) For reasons of consistency, the provisions concerning inspections of Council Regulation (EEC, Euratom) No 1553/89 <sup>(3)</sup> should be included in this Regulation.
- (3) In order to ensure a balanced budget, any surplus of the Union's revenue over total actual expenditure during a financial year should be carried over to the following financial year. Therefore, the balance to be carried over should be defined.
- (4) Member States should conduct checks and enquiries relating to calculating, establishing and making available the Union's own resources. In order to facilitate the application of the financial rules relating to own resources, it is necessary to ensure that the Member States and the Commission collaborate.

<sup>(1)</sup> OJ L 424, 15.12.2020, p. 1.

<sup>(2)</sup> Consent of 25 March 2021 (not yet published in the Official Journal).

<sup>(3)</sup> Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax (OJ L 155, 7.6.1989, p. 9).

- (5) The transparency of the system of own resources of the Union should be ensured by the provision of adequate information to the European Parliament and to the Council. Therefore, the Member States should put at the disposal of the Commission the documents and information necessary for the Commission to exercise the power conferred upon it as regards the Union's own resources and, where necessary, send those documents and information to the Commission.
- (6) For the sake of consistency and clarity, provisions should be laid down covering the powers and obligations of officials, other servants and seconded national experts who take part in inspections in relation to the Union's own resources. In particular, the rules which all Union officials, other servants and seconded national experts have to observe with regard to professional confidentiality and the protection of personal data should be laid down. It is necessary to specify the status of seconded national experts and the possibility for the Member State concerned to object to the presence of officials of other Member States at an inspection.
- (7) The arrangements whereby the Member States responsible for collecting own resources report to the Commission should make it possible for the Commission to monitor the actions of Member States to recover own resources, in particular in cases of fraud and irregularities.
- (8) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards establishing detailed rules on the reporting of fraud and irregularities that affect entitlements to traditional own resources and Member States' annual reports on their inspections. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(4)</sup>.
- (9) The advisory procedure should be used for the adoption of implementing acts in order to establish detailed rules on the reporting of fraud and irregularities that affect entitlements to traditional own resources and Member States' annual reports on their inspections, given the technical nature of those acts required for reporting purposes.
- (10) Appropriate parliamentary oversight, as set out in the Treaties, is required for provisions of a general nature applicable to all categories of own resources.
- (11) Council Regulation (EU, Euratom) No 608/2014 <sup>(5)</sup> should be repealed.
- (12) For reasons of consistency, this Regulation should enter into force on the same day as Decision (EU, Euratom) 2020/2053 and should apply from the same date of application as that Decision, that is, from 1 January 2021,

HAS ADOPTED THIS REGULATION:

## CHAPTER I

### DETERMINING OWN RESOURCES

#### *Article 1*

#### **Calculation and budgeting of the balance**

1. For the purposes of applying Article 8 of Decision (EU, Euratom) 2020/2053 the balance of a given financial year shall consist of the difference between all the revenue collected in respect of that financial year and the amount of payments made against appropriations for that financial year increased by the amount of the appropriations for the same financial year carried over pursuant to Article 12 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council <sup>(6)</sup> ('the Financial Regulation').

<sup>(4)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>(5)</sup> Council Regulation (EU, Euratom) No 608/2014 of 26 May 2014 laying down implementing measures for the system of own resources of the European Union (OJ L 168, 7.6.2014, p. 29).

<sup>(6)</sup> 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).

That difference shall be increased or decreased by the net amount of appropriations carried over from previous financial years which have been cancelled. By way of derogation from Article 8(1) of the Financial Regulation, the difference shall also be increased or decreased by the following:

- (a) payments made in excess of non-differentiated appropriations carried over from the previous financial year under Article 12(1) and (4) of the Financial Regulation as a result of changes in euro rates;
- (b) the balance resulting from exchange gains and losses during the financial year.

2. The Commission shall, before the end of October in each financial year, make an estimate of the own resources collected for the entire year, on the basis of the data at its disposal at that time. Any appreciable differences in relation to original estimates may give rise to a letter of amendment to the draft budget for the following financial year or an amending budget for the current financial year.

## CHAPTER II

### PROVISIONS CONCERNING CONTROL AND SUPERVISION AND RELEVANT REPORTING REQUIREMENTS

#### *Article 2*

#### **Control and supervision measures**

1. The own resources referred to in Article 2(1) of Decision (EU, Euratom) 2020/2053 shall be inspected as specified in this Regulation, without prejudice to Regulation (EEC, Euratom) No 1553/89 and Regulation (EU) 2019/516 of the European Parliament and of the Council <sup>(7)</sup>.

2. Member States shall take all measures that are necessary to ensure that the own resources referred to in Article 2(1) of Decision (EU, Euratom) 2020/2053 are made available to the Commission.

3. Where control and supervision measures concern the traditional own resources referred to in point (a) of Article 2(1) of Decision (EU, Euratom) 2020/2053:

- (a) Member States shall conduct the checks and enquiries concerning the establishment and the making available of those own resources;
- (b) Member States shall carry out additional inspection measures at the Commission's request. In its request the Commission shall state the reasons for the additional inspection. The Commission may also request that certain documents be sent to it;
- (c) Member States shall, if the Commission so requests, involve it in the inspections that they carry out. Where the Commission is involved in an inspection, the Commission shall have access, in so far as the application of this Regulation so requires, to the supporting documents concerning the establishment and the making available of the own resources, and to any other appropriate document related to those supporting documents;
- (d) the Commission may itself carry out on-the-spot inspections. The agents authorised by the Commission for the purpose of such inspections shall have access to documents as set out for the inspections referred to in point (c). Member States shall facilitate those inspections.

4. Where control and supervision measures concern the own resource based on VAT referred to in point (b) of Article 2(1) of Decision (EU, Euratom) 2020/2053 the Commission's inspections shall be carried out together with the competent authorities of the Member State concerned. During those inspections, the Commission shall make sure, in particular, that the operations to calculate the total net VAT collected were performed correctly. It shall also confirm that the data used were appropriate, and that the calculations made to determine the amount of that own resource as referred to in Article 3(1) of Regulation (EEC, Euratom) No 1553/89 comply with that Regulation.

<sup>(7)</sup> Regulation (EU) 2019/516 of the European Parliament and of the Council of 19 March 2019 on the harmonisation of gross national income at market prices and repealing Council Directive 89/130/EEC, Euratom and Council Regulation (EC, Euratom) No 1287/2003 (GNI Regulation) (OJ L 91, 29.3.2019, p. 19).

5. Where control and supervision measures concern the own resource based on plastic packaging waste that is not recycled referred to in point (c) of Article 2(1) of Decision (EU, Euratom) 2020/2053 the Commission shall have access to the documents relating to the procedures and to the data referred to in European Parliament and Council Directive 94/62/EC<sup>(8)</sup> and in Commission Decision 2005/270/EC<sup>(9)</sup>. The Commission's inspections shall be carried out together with the competent authorities of the Member State concerned. During those inspections, the Commission shall make sure that the operations to calculate the weight of plastic packaging waste that is not recycled as referred to in the second subparagraph of Article 2(2) of the Decision (EU, Euratom) 2020/2053 were performed correctly.

6. Where control and supervision measures concern the own resource based on gross national income (GNI) referred to in point (d) of Article 2(1) of Decision (EU, Euratom) 2020/2053:

- (a) the Commission shall each year inspect the aggregates provided for errors in compilation, together with the Member State concerned, especially in cases notified by the expert group referred to in Article 4 of Regulation (EU) 2019/516; in doing so, it may also examine calculations and statistical bases in individual cases, except for information about individual companies or persons, if no proper assessment would otherwise be possible;
- (b) the Commission shall also have access to the documents relating to the sources and methods referred to in Article 3 of Regulation (EU) 2019/516.

7. The control and supervision measures referred to in this Article shall be without prejudice to the following:

- (a) the inspections carried out by Member States in accordance with their national laws, regulations or administrative provisions;
- (b) the measures provided for in Articles 287 and 319 of the Treaty on the Functioning of the European Union (TFEU);
- (c) the inspection arrangements made pursuant to point (b) of Article 322(1) TFEU.

8. For the purposes of the control and supervision measures under paragraphs 3 to 6, the Commission may request the Member States to send it relevant documents or reports relating to the systems used to collect own resources or to make such documents or reports available to the Commission.

### Article 3

#### **Powers and obligations of the authorised agents of the Commission**

1. The Commission shall specifically appoint for the purpose of carrying out the inspections referred to in Article 2 certain of its officials or other servants ('authorised agents').

For each inspection, the Commission shall provide the authorised agents with written terms of reference stating their identity and official capacity.

Experts seconded to the Commission by the Member States as national experts may participate in the inspections.

With the explicit and prior agreement of the Member State concerned, the Commission may seek the assistance of officials from other Member States as observers. The Commission shall ensure that those officials comply with paragraph 3.

2. During the inspections referred to in Article 2 the authorised agents shall act in a manner compatible with the rules applicable to the officials of the Member State concerned. They shall be bound by professional secrecy, under the conditions laid down in paragraph 3 of this Article.

The Commission shall respect the principle of statistical confidentiality as established in Regulation (EC) No 223/2009 of the European Parliament and of the Council<sup>(10)</sup>.

<sup>(8)</sup> European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

<sup>(9)</sup> Commission Decision 2005/270/EC of 22 March 2005 establishing the formats relating to the database system pursuant to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ L 86, 5.4.2005, p. 6).

<sup>(10)</sup> Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).

An authorised agent may, if necessary, contact debtors, but only in the context of the inspections of traditional own resources, and only through the competent authorities whose own resources collection procedures are the subject of the inspection.

3. Information communicated or obtained under this Regulation, in whatever form, shall be subject to professional secrecy and receive the protection granted to similar information under the national law of the Member State in which it was gathered and under the corresponding provisions applicable to the institutions of the Union.

The information referred to in the first subparagraph shall not be communicated to persons other than those persons within the institutions of the Union or within the Member States whose duty is to know that information nor shall it be used for purposes other than those laid down in this Regulation without the prior consent of the Member State in which it was gathered.

The first and second subparagraphs shall apply to the officials and other servants of the Union, and seconded national experts.

4. The Commission shall ensure that authorised agents and other persons acting under its authority comply with Regulation (EU) 2016/679 of the European Parliament and of the Council <sup>(1)</sup> and Regulation (EU) 2018/1725 of the European Parliament and of the Council <sup>(2)</sup> and other Union and national rules concerning the protection of personal data.

#### Article 4

### Preparation and management of inspections

1. In a duly substantiated communication, the Commission shall give notice of an inspection in good time to the Member State in which the inspection is to take place. Agents of the Member State concerned may participate in such inspection.

2. Inspections shall be carried out by the authorised agents. For the purposes of the organisation of the work, the authorised agents shall establish the necessary contacts with the competent authorities of the Member States.

3. For the inspections in which the Commission is involved, the organisation of the work and relations with the departments involved in the inspection shall be ensured by the department designated by the Member State concerned.

4. On-the-spot inspections relating to traditional own resources referred to in point (d) of Article 2(3) shall be carried out by the authorised agents. For the purposes of the organisation of the work and relations with the departments, and where appropriate, the debtors involved in the inspection, the authorised agents shall, prior to any on-the-spot inspections, establish the necessary contacts with the officials designated by the Member State concerned. For this type of inspection, the terms of reference shall be set out in a document indicating the aim and purpose of the inspection.

5. The Member States shall ensure that the departments or agencies responsible for calculating, establishing, collecting and making available the own resources, and the authorities which they have instructed to carry out the inspections thereon, provide the authorised agents with the assistance necessary for carrying out their duties.

For the purposes of on-the-spot inspections relating to traditional own resources referred to in point (d) of Article 2(3) Member States concerned shall inform the Commission in good time of the identity and capacity of the persons appointed to take part in these inspections and shall afford the authorised agents every assistance necessary for carrying out their duties.

---

<sup>(1)</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>(2)</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

6. The results of the controls and inspections referred to in Article 2, except the inspections carried out by the Member States, shall be brought to the attention of the Member State concerned through the appropriate channels within a period of three months. The Member State shall submit its observations within three months following receipt of the report. However, for duly substantiated reasons, the Commission may request the Member State concerned to submit observations on specific points within a period of one month following receipt of the report. The Member State concerned may decline to respond by means of a communication stating the reasons which prevent it from responding to the Commission's request.

The results and observations referred to in the first subparagraph, together with the summary report prepared in connection with controls on the own resources referred to in points (b) and (c) of Article 2(1) of Decision (EU, Euratom) 2020/2053, shall be brought to the attention of all Member States.

If the on-the-spot inspections or other inspections in which the Commission is involved, where the inspections relate to traditional own resources, identify the need for amendment or correction of data in the statements or declarations sent to the Commission regarding own resources and the resultant corrections are to be made via a current statement or declaration then the relevant changes shall be identified, in the statement or declaration so used, by means of appropriate notes.

#### *Article 5*

##### **Reporting of fraud and irregularities that affect entitlements to traditional own resources**

1. Within two months following the end of each quarter, Member States shall send the Commission a description of detected cases of fraud and irregularities involving entitlements of over EUR 10 000 concerning the traditional own resources referred to in point (a) of Article 2(1) of Decision (EU, Euratom) 2020/2053.

Within the period referred to in the first subparagraph, each Member State shall give details of the position concerning cases of fraud and irregularities already reported to the Commission, the recovery, cancellation or non-recovery of which was not indicated earlier.

2. The Commission shall adopt implementing acts establishing details of the descriptions referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 7(2).

3. A summary of the descriptions referred to in paragraph 1 of this Article shall be included in the Commission's report referred to in Article 325(5) TFEU.

#### *Article 6*

##### **Reporting by Member States on their inspections of traditional own resources**

1. Member States shall submit detailed annual reports to the Commission on their inspections relating to traditional own resources and the results of these inspections, the overall data and any questions of principle concerning the most important problems arising out of the application of the relevant regulations implementing Decision (EU, Euratom) 2020/2053 and, in particular, matters in dispute. The reports shall be sent to the Commission by 1 March of the year following the financial year concerned. On the basis of those reports, the Commission shall prepare a summary report, which shall be brought to the attention of all Member States.

2. The Commission shall adopt implementing acts establishing a form for the Member States' annual reports referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 7(2).

3. The Commission shall report every three years to the European Parliament and to the Council on the functioning of the inspection arrangements for traditional own resources referred to in Article 2(3).



## CHAPTER III

**COMMITTEE AND FINAL PROVISIONS***Article 7***Committee procedure**

1. The Commission shall be assisted by the Advisory Committee on Own Resources (ACOR) and by other committees where necessary. The ACOR and the other committees shall be committees within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

*Article 8***Final provisions**

Regulation (EU, Euratom) No 608/2014 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex to this Regulation.

*Article 9***Entry into force**

This Regulation shall enter into force on the date of entry into force of Decision (EU, Euratom) 2020/2053.

It shall apply from 1 January 2021.

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

Done at Brussels, 30 April 2021.

*For the Council*  
*The President*  
A. P. ZACARIAS

ANNEX  
CORRELATION TABLE

Regulation (EU, Euratom) No 608/2014	This Regulation
Article 1	Article 1
Article 2(1)	Article 2(1)
Article 2(2)	Article 2(2)
Article 2(3)(a)	Article 2(3)(a)
Article 2(3)(b)	Article 2(3)(b)
Article 2(3)(c)	Article 2(3)(c)
Article 2(3)(d)	Article 2(3)(d)
Article 2(3)(e)	Article 2(7)
Article 2(4)	Article 2(4)
–	Article 2(5)
Article 2(5)	Article 2(6)
Article 2(6)	Article 2(8)
Article 3	Article 3
Article 4	Article 4
Article 5	Article 5
Article 6	Article 6
Article 7	Article 7
Article 8	Article 8
Article 9	Article 9

## II

(Non-legislative acts)

## REGULATIONS

## COUNCIL REGULATION (EU, Euratom) 2021/769

of 30 April 2021

**amending Regulation (EEC, Euratom) No 1553/89 on the definitive uniform arrangements for the collection of own resources accruing from value added tax**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 322(2),

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Having regard to the opinion of the European Court of Auditors <sup>(2)</sup>,

Whereas:

- (1) The own resource based on value added tax (VAT), which was established by Council Decision (EU, Euratom) 2020/2053 <sup>(3)</sup> (the 'VAT-based own resource') should be made available to the Union on the best possible conditions. Accordingly, rules should be laid down for Member States to make that own resource available to the Union budget.
- (2) For the sake of simplicity and transparency, and in order to reduce administrative burden, the VAT-based own resource should be calculated on the basis of a definitive multi-annual weighted average rate. The arrangements for determining the base for the VAT-based own resource should be established in a uniform manner, starting from receipts that were actually collected in a given calendar year, which should be the sole definitive method for determining the base for the VAT-based own resource.
- (3) The definitive weighted average rate of VAT for the financial year 2016 in each Member State should be used as the definitive multi-annual weighted average rate.
- (4) A reliable and rapid review procedure should be established in order to resolve possible disputes that may arise between a Member State and the Commission concerning the amount of any corrections to the statements of the base for the VAT-based own resource, thereby avoiding time-consuming and costly infringement proceedings before the Court of Justice of the European Union.

<sup>(1)</sup> Opinion of 25 March 2021 (not yet published in the Official Journal).

<sup>(2)</sup> Opinion of 8 December 2020 (not yet published in the Official Journal).

<sup>(3)</sup> Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom (OJ L 424, 15.12.2020, p. 1).

- (5) In order to ensure uniform conditions for the implementation of Council Regulation (EEC, Euratom) No 1553/89 <sup>(4)</sup>, implementing powers should be conferred on the Commission as regards further specifying the procedure for the review of corrections to the statements of the base for the VAT-based own resource and as regards the solutions and related modifications proposed by Member States in order to determine certain amounts to be taken into account for the purpose of calculating the total amount of net VAT receipts. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(5)</sup>.
- (6) Regulation (EEC, Euratom) No 1553/89 should therefore be amended accordingly.
- (7) For reasons of consistency, this Regulation should enter into force on the same day as Decision (EU, Euratom) 2020/2053 and should apply from the same date of application as that Decision, that is, from 1 January 2021. However, the amendments set out in this Regulation to Regulation (EEC, Euratom) No 1553/89 should not apply to the production or correction of statements of the base for the VAT-based own resource for financial years before 2021,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Regulation (EEC, Euratom) No 1553/89 is amended as follows:

- (1) before Article 1, the words 'Title I General provisions' are deleted;
- (2) Article 1 is replaced by the following:

##### *'Article 1*

The VAT-based own resource shall be calculated by applying the uniform call rate under point (b) of Article 2(1) of Decision (EU, Euratom) 2020/2053 <sup>(\*)</sup> to the base determined in accordance with this Regulation.

---

<sup>(\*)</sup> Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom (OJ L 424, 15.12.2020, p. 1).;

- (3) before Article 2, the words 'Title II Scope' are deleted;
- (4) Article 2 is replaced by the following:

##### *'Article 2*

The VAT-based own resource shall be calculated on the basis of the taxable transactions referred to in Article 2 of Council Directive 2006/112/EC <sup>(\*)</sup>.

---

<sup>(\*)</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).;

- (5) before Article 3, the words 'Title III Method of calculation' are deleted;

---

<sup>(4)</sup> Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax (OJ L 155, 7.6.1989, p. 9).

<sup>(5)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(6) Articles 3 and 4 are replaced by the following:

*Article 3*

1. For a given calendar year, the base for the VAT-based own resource shall be determined by dividing the total amount of net VAT receipts collected by a Member State from the transactions referred to in Article 2 during that year, corrected in accordance with paragraph 2 of this Article, by the definitive multi-annual weighted average rate, as calculated in accordance with the method set out in Article 4.

That definitive multi-annual weighted average rate shall be expressed as a percentage, applying the method set out in Article 4.

2. The total amount of net VAT receipts referred to in paragraph 1 of this Article shall be corrected to account for the following:

- (a) any amounts to be treated for own resource purposes as transactions originating in or destined for a Member State although originating in or destined for a territory referred to in Article 6 of Directive 2006/112/EC;
- (b) any amounts accruing from transactions originating in or intended for one of the places referred to in Article 7 of Directive 2006/112/EC, insofar as a Member State is able to prove that the revenue has been transferred to that place;
- (c) any amounts due following corrections resulting from infringements of Directive 2006/112/EC.

3. The amount determined by application of paragraph 1 of this Article shall be multiplied by the uniform call rate under point (b) of Article 2(1) of Decision (EU, Euratom) 2020/2053 to obtain the VAT-based own resource that is to be made available to the Union budget.

*Article 4*

1. The VAT-based own resource shall be calculated on the basis of calendar years.

2. The definitive multi-annual weighted average rate shall be calculated on the basis of the method set out in paragraphs 3 to 8.

3. The definitive multi-annual weighted average rate shall be the percentage calculated by each Member State, respectively, for the financial year 2016, in accordance with the provisions of this Article as applicable before 1 January 2021.

4. The percentage in which the definitive multi-annual weighted average rate is expressed shall be calculated to the fourth decimal place.

5. The definitive multi-annual weighted average rate shall have been inspected and shall be free from notifications concerning outstanding points as referred to in Article 9(2).

6. A weighted average rate under notification shall be used until the points that were notified as referred to in Article 9(2) have been resolved, and shall be considered as the provisional multi-annual weighted average rate.

7. Once the points that were notified as referred to in Article 9(2) have been resolved, the resulting percentage shall replace the provisional multi-annual weighted average rate, and shall become the definitive multi-annual weighted average rate from the financial year 2021 onwards.

8. The budgetary implications of any difference between the provisional and the definitive multi-annual weighted average rate shall be addressed under the procedure outlined in Article 10b(5) of Council Regulation (EU, Euratom) No 609/2014 (\*) (the "yearly balance exercise").

---

(\*) Council Regulation (EU, Euratom) No 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements (OJ L 168, 7.6.2014, p. 39).;

- (7) Articles 5 and 6 are deleted;
- (8) before Article 7, the words 'Title IV Provisions relating to accounting and making available of own resources' are deleted;
- (9) Articles 7, 8 and 9 are replaced by the following:

#### *Article 7*

1. By 31 July of each year, Member States shall send the Commission a statement of the total amount of the base for the VAT-based own resource for the previous calendar year, determined in accordance with Article 3, to which the uniform call rate referred to in Article 1 is to be applied.
2. The statement referred to in paragraph 1 of this Article shall contain all the data used to determine the base that are required for the inspections referred to in Article 2(4) of Council Regulation (EU, Euratom) 2021/768 (\*).
3. The data used to determine the base for the VAT-based own resource shall be the most recent data available when the statement is produced.
4. Member States may request an extension of the time limit referred to in paragraph 1 of this Article if exceptional circumstances beyond their control make it impossible to perform the calculations in accordance with Article 3 and therefore to adhere to that time limit. Such a request shall be made to the Commission in writing and shall set out the reasons for the exceptional circumstances.
5. The Commission, after examining the request referred to in paragraph 4 of this Article, may grant a single extension of the time limit referred to in paragraph 1 of this Article for a maximum of two months. The Commission shall report the number of requests and its corresponding decisions to the committee referred to in Article 13(1) on an annual basis.

#### *Article 8*

By 15 April of each year, for budgetary purposes, Member States shall send to the Commission an estimate of the base for the VAT-based own resource for the following financial year.

#### *Article 9*

1. Any corrections to the statements referred to in Article 7(1) of this Regulation for previous financial years, for whatever reason, shall be made in agreement between the Commission and the Member State concerned.

If the Member State concerned and the Commission do not agree on a correction, the Commission shall inform that Member State in a letter about the necessary correction. That letter shall constitute "measures" as referred to in point (c) of Article 12(2) of Regulation (EU, Euratom) No 609/2014.

- 1a. The Member State concerned may request the Commission to review the correction communicated in the letter referred to in the second subparagraph of paragraph 1 of this Article within two months from the day of the receipt of that letter. The review shall be concluded with a decision to be adopted by the Commission at the latest three months from the day of receipt of the Member State's request.

Where the Commission's decision reviews the amounts in full or partially corresponding to the correction communicated in the letter referred to in the second subparagraph of paragraph 1 of this Article, the Member State shall make available the corresponding amount. Neither the Member State's request to review the correction nor an action for annulment against the Commission's decision shall affect the Member State's obligation to make available the amount corresponding to the correction.

All corrections to the statements referred to in Article 7(1) shall be incorporated in aggregate statements, which shall amend the previous statements for the financial years concerned.

1b. The Commission may adopt implementing acts further specifying the procedure for the review referred to in paragraph 1a. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13(3).

2. No further corrections shall be made to the statements referred to in Article 7(1) after 31 July of the fourth year following the financial year concerned, unless those corrections concern points previously notified either by the Commission or by the Member State concerned.

(\*) Council Regulation (EU, Euratom) 2021/768 of 30 April 2021 laying down implementing measures for the system of own resources of the European Union and repealing Regulation (EU, Euratom) No 608/2014 (OJ L 165, ..... , p. 1).;

(10) before Article 10, the words ‘Title V Provisions relating to control’ are deleted;

(11) Articles 10 to 13 are replaced by the following:

#### *Article 10*

1. By 30 April of each year, each Member State shall inform the Commission of any solutions and related modifications that it proposes to adopt in order to determine the amounts referred to in points (a) and (b) of Article 3(2). The proposed solution shall indicate, where applicable, the nature of the data that the Member State considers appropriate, and shall include an estimate of the value of the base for the VAT-based own resource for each item.

By 31 May of the same year, the Commission shall send to the other Member States the information referred to in the first subparagraph of this paragraph that it has received from a Member State.

2. The Commission may adopt implementing acts as regards the solutions and related modifications proposed by Member States in accordance with paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 13(2), within 60 days after the committee referred to in Article 13(1) has delivered its opinion.

#### *Article 11*

1. Following the inspections referred to in Article 2(4) of Regulation (EU, Euratom) 2021/768, the statement referred to in Article 7(1) of this Regulation shall be corrected as specified in Article 9 of this Regulation.

2. With respect to the definitive multi-annual weighted average rate referred to in Article 4(2), the Commission shall assess the corrections referred to in Article 9 submitted by Member States in order to resolve any notifications concerning outstanding points regarding the weighted average rate.

#### *Article 12*

1. Each year, each Member State shall provide the Commission with information concerning all relevant changes to the administrative processes and procedures which it applies for the collection of VAT in comparison with the information that it previously submitted.

2. The Commission shall consider, together with the Member State concerned, whether the processes and procedures referred to in paragraph 1 can be improved.

3. Every five years, the Commission shall produce a report on the measures taken and progress made by Member States in relation to the collection of VAT and on any improvements.

The Commission shall submit that report to the European Parliament and the Council for the first time by 31 December 2025.

*Article 13*

1. The Commission shall be assisted by the Advisory Committee on Own Resources (ACOR/VAT) established by Article 7(1) of Regulation (EU, Euratom) 2021/768. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council (\*).
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

(\*) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).;

(12) after Article 13, the following Article is inserted:

*'Article 13a*

1. The Commission shall produce a report on the functioning of the VAT-based own resource system at the latest by 1 January 2025. The report shall state:
  - (a) the number of Member States that still apply a weighted average rate subject to any notifications concerning outstanding points;
  - (b) any changes to national VAT rates.
2. The report referred to in paragraph 1 shall include an assessment of whether the VAT-based own resource system, in particular, the multi-annual weighted average rate, is effective and adequate. If appropriate, the report shall be accompanied by a proposal to modify this Regulation with a view to calculating the definitive multi-annual weighted average rate on the basis of more recent data.;

(13) before Article 14, the words 'Title VI Final provisions' are deleted.

*Article 2*

This Regulation shall enter into force on the date of entry into force of Decision (EU, Euratom) 2020/2053.

It shall apply from 1 January 2021.

However, Article 1 shall not apply to the production or correction of statements of the base for the VAT-based own resource for financial years before 2021.

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

Done at Brussels, 30 April 2021.

*For the Council*  
*The President*  
A. P. ZACARIAS



**COUNCIL REGULATION (EU, Euratom) 2021/770****of 30 April 2021****on the calculation of the own resource based on plastic packaging waste that is not recycled, on the methods and procedure for making available that own resource, on the measures to meet cash requirements, and on certain aspects of the own resource based on gross national income**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 322(2) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Having regard to the opinion of the European Court of Auditors <sup>(2)</sup>,

Whereas:

- (1) The Union must have the own resource based on plastic packaging waste that is not recycled referred to in point (c) of Article 2(1) of Council Decision (EU, Euratom) 2020/2053 <sup>(3)</sup> (the 'own resource based on non-recycled plastic packaging waste') available on the best possible conditions and, accordingly, rules should be laid down for the Member States to provide the Commission with that own resource.
- (2) Council Regulation (EU, Euratom) No 609/2014 <sup>(4)</sup> lays down rules on making available to the Commission the own resources of the Union referred to in points (a), (b) and (d) of Article 2(1) of Decision (EU, Euratom) 2020/2053, and on administrative arrangements that are common to other own resources and that can be applied, where appropriate, *mutatis mutandis* in the absence of one single regulation governing the making available of all the own resources of the Union.
- (3) Member States should put at the disposal of the Commission the documents and information necessary for the Commission to exercise the power conferred upon it as regards the own resources of the Union. In particular, Member States should send periodic statements relating to the own resource based on non-recycled plastic packaging waste to the Commission.
- (4) Member States should be able at all times to provide the Commission with the documents substantiating the amount of the own resource based on non-recycled plastic packaging waste that was calculated.
- (5) The determination of the applicable uniform call rate of the own resource based on gross national income (GNI) referred to in point (d) of Article 2(1) of Decision (EU, Euratom) 2020/2053 (the 'GNI-based own resource') should be done after revenue from all the other own resources referred to in points (a), (b) and (c) of Article 2(1) of that Decision, and revenue from financial contributions to supplementary research and technological development programmes and other revenue have been added.

---

<sup>(1)</sup> Opinion of 25 March 2021 (not yet published in the Official Journal).

<sup>(2)</sup> Opinion of 9 October 2018 (OJ C 431, 29.11.2018, p. 1).

<sup>(3)</sup> Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom (OJ L 424, 15.12.2020, p. 1).

<sup>(4)</sup> Council Regulation (EU, Euratom) No 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements (OJ L 168, 7.6.2014, p. 39).

- (6) The gross reductions in annual GNI-based contributions granted to Denmark, Germany, Austria, the Netherlands and Sweden under Article 2(4) of Decision (EU, Euratom) 2020/2053 should be taken into account for the entry of the GNI-based own resource in the accounts pursuant to the third subparagraph of Article 6(3) of Regulation (EU, Euratom) No 609/2014 and for the making available of that own resource pursuant to Article 10a of that Regulation.
- (7) In order to ensure that the budget of the Union is financed in all circumstances, a procedure should be laid down for Member States to make available to the Union, in the form of monthly twelfths, the own resource based on non-recycled plastic packaging waste entered in the budget and subsequently to adjust the amounts made available.
- (8) The methodology for calculating the own resource based on non-recycled plastic packaging waste should be clearly set out, taking into account the applicable uniform call rate under point (c) of Article 2(1) of Decision (EU, Euratom) 2020/2053.
- (9) The own resource based on non-recycled plastic packaging waste should be made available in the form of an entry of the amounts due in the account opened under Regulation (EU, Euratom) No 609/2014 for that purpose in the name of the Commission with the treasury or with the body appointed by each Member State.
- (10) In the interest of simplification, the procedure for adjusting the own resource based on non-recycled plastic packaging waste should be aligned with the adjustment provisions for existing own resources. The overall amount of any adjustments should be immediately redistributed among the Member States.
- (11) The Commission should have sufficient cash resources to comply with the regulatory requirements for payments concentrated in the opening months of the year, in so far as it is justified by cash requirements.
- (12) In order to achieve the Union's objectives, the procedure for calculating interest should ensure in particular that the own resource based on non-recycled plastic packaging waste is made available in a timely manner and in full. Member States should pay interest in the event of delays in entering that own resource into the accounts. In accordance with the principle of sound financial management, care should be taken to ensure that the cost of recovering the interest due on the own resource based on non-recycled plastic packaging waste that was belatedly made available should not exceed the amount of the interest payable.
- (13) A reliable and rapid review procedure should be established in order to resolve possible disputes that may arise between a Member State and the Commission concerning the amount of any adjustments to the statements relating to the own resource based on non-recycled plastic packaging waste or concerning whether an alleged failure to provide data can be attributed to a Member State, thereby avoiding time-consuming and costly infringement proceedings before the Court of Justice of the European Union.
- (14) In order to facilitate the proper application of the financial rules relating to the own resource based on non-recycled plastic packaging waste, it is necessary to include provisions ensuring close cooperation between Member States and the Commission.
- (15) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards establishing forms for the statements relating to the own resource based on non-recycled plastic packaging waste and as regards further specifying the procedure for the review to resolve possible disputes between a Member State and the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(5)</sup>.

<sup>(5)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (16) The advisory procedure should be used for the adoption of implementing acts in order to establish forms for the statements relating to the own resource based on non-recycled plastic packaging waste given the technical nature of those acts.
- (17) To facilitate the introduction of the own resource based on non-recycled plastic packaging waste, Member States should provide forecasts by the last day of the second month following the entry into force of this Regulation. Those forecasts should be based on the best estimate of the weight of plastic packaging waste that is not recycled, calculated in accordance with the revised methodology set out in European Parliament and Council Directive 94/62/EC <sup>(6)</sup> as amended by Directive (EU) 2018/852 of the European Parliament and of the Council <sup>(7)</sup> and Commission Decision 2005/270/EC <sup>(8)</sup> as amended by Commission Implementing Decision (EU) 2019/665 <sup>(9)</sup> (the 'revised methodology'). To facilitate the transition to the revised methodology, it should be possible for Member States to provide their forecasts in the years 2021 and 2022 on the basis of the previous methodology.
- (18) For reasons of consistency, this Regulation should enter into force on the same day as Decision (EU, Euratom) 2020/2053 and should apply from the same date of application as that Decision, that is, from 1 January 2021,

HAS ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### *Article 1*

#### **Subject matter**

This Regulation lays down rules on calculating the own resource based on plastic packaging waste that is not recycled referred to in point (c) of Article 2(1) of Decision (EU, Euratom) 2020/2053 (the 'own resource based on non-recycled plastic packaging waste'), on making that own resource available to the Commission, on the measures to meet cash requirements, and on specific effects on the calculation of the applicable uniform call rate of the own resource based on gross national income (GNI) referred to in point (d) of Article 2(1) of that Decision (the 'GNI-based own resource').

<sup>(6)</sup> European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

<sup>(7)</sup> Directive (EU) 2018/852 of the European Parliament and of the Council of 30 May 2018 amending Directive 94/62/EC on packaging and packaging waste (OJ L 150, 14.6.2018, p. 141).

<sup>(8)</sup> Commission Decision 2005/270/EC of 22 March 2005 establishing the formats relating to the database system pursuant to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ L 86, 5.4.2005, p. 6).

<sup>(9)</sup> Commission Implementing Decision (EU) 2019/665 of 17 April 2019 amending Decision 2005/270/EC establishing the formats relating to the database system pursuant to European Parliament and Council Directive 94/62/EC on packaging and packaging waste (OJ L 112, 26.4.2019, p. 26).

*Article 2***Conservation of supporting documents**

1. The supporting documents relating to the own resource based on non-recycled plastic packaging waste shall be kept by the Member States until 31 July of the fifth year following the financial year in question.
2. If verification pursuant to Article 2(5) of Council Regulation (EU, Euratom) 2021/768 <sup>(10)</sup> concerning the supporting documents referred to in paragraph 1 of this Article shows that a correction or adjustment is required, those documents shall be kept beyond the time limit provided for in paragraph 1 of this Article for a sufficient period to permit the correction or adjustment to be made and monitored.
3. Where a dispute between a Member State and the Commission concerning the obligation to make available a certain amount of the own resource based on non-recycled plastic packaging waste or concerning allegations involving inspections or failures to provide data is settled by mutual agreement, by a decision of the Commission or by a decision of the Court of Justice of the European Union, Member State shall transmit the supporting documents necessary for the financial follow-up to the Commission within two months after that settlement.

*Article 3***Administrative cooperation**

1. Each Member State shall inform the Commission of the following:
  - (a) the names of the departments or agencies responsible for calculating, establishing, making available and controlling the own resource based on non-recycled plastic packaging waste, and the basic provisions relating to the role and operation of those departments and agencies;
  - (b) the general provisions laid down by law, regulation or administrative action and those relating to the accounting procedure concerning the calculation, establishment, making available and control by the Commission of the own resource based on non-recycled plastic packaging waste;
  - (c) the precise title of all administrative and accounting records in which the own resource based on non-recycled plastic packaging waste is entered, in particular those used for drawing up the accounts provided for in Article 5.

The Commission shall be informed immediately of any change in the names referred to in point (a) of the first subparagraph or provisions referred to in point (b) of the first subparagraph.

2. The Commission shall, at the request of a Member State, transmit to all Member States the information referred to in paragraph 1.

*Article 4***Specific effects on the GNI-based own resource**

1. For the purposes of setting the uniform rate as referred to in Article 5 of Regulation (EU, Euratom) No 609/2014, the revenue referred to in point (c) of Article 2(1) of Decision (EU, Euratom) 2020/2053 shall be added to the revenues referred to in points (a) and (b) of Article 2(1) of that Decision in order to calculate the part of the budget to be covered by the GNI-based own resource.
2. The third subparagraph of Article 6(3) and Article 10a of Regulation (EU, Euratom) No 609/2014 shall apply to the gross reductions in annual GNI-based contributions granted to Denmark, Germany, Austria, the Netherlands and Sweden under Article 2(4) of Decision (EU, Euratom) 2020/2053.

---

<sup>(10)</sup> Council Regulation (EU, Euratom) 2021/768 of 30 April 2021 laying down implementing measures for the system of own resources of the European Union and repealing Regulation (EU, Euratom) No 608/2014 (see page 1 of this Official Journal).

## CHAPTER II

**ACCOUNTS FOR THE OWN RESOURCE BASED ON NON-RECYCLED PLASTIC PACKAGING WASTE***Article 5***Entry in the accounts and reporting**

1. Accounts for the own resource based on non-recycled plastic packaging waste shall be kept by the treasury of each Member State or by a public entity exercising similar functions ('treasury'), or by the national central bank of each Member State.
2. For own-resources accounting purposes, the month shall end no earlier than 1 p.m. on the last working day of the month during which the calculation or the establishment took place.
3. The twelfths of the own resource based on non-recycled plastic packaging waste shall be entered in the accounts on the first working day of each month.

The result of the calculation referred to in Article 9 shall be recorded annually.

4. By 15 April of each year, each Member State shall send to the Commission forecasts of the weight of plastic packaging waste that is not recycled for the current and the following year.
5. By 31 July of each year, each Member State shall send to the Commission an annual statement for the year two years before the current year ('n-2') providing statistical data on the weight of plastic packaging waste generated in the Member State and on the weight of that plastic packaging waste that was recycled, the weights being provided in kilograms, and an annual statement for the year n-2 providing the calculation of the amount of the own resource based on non-recycled plastic packaging waste in accordance with Article 6.
6. The Commission shall adopt implementing acts establishing forms for the statements relating to the own resource based on non-recycled plastic packaging waste, referred to in paragraph 5 of this Article. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 14(2).

## CHAPTER III

**CALCULATION OF THE OWN RESOURCE BASED ON NON-RECYCLED PLASTIC PACKAGING WASTE***Article 6***Calculation of the own resource based on non-recycled plastic packaging waste**

1. The own resource based on non-recycled plastic packaging waste shall be calculated as set out in point (c) of Article 2(1) of Decision (EU, Euratom) 2020/2053. The weight of plastic packaging waste that is not recycled shall be calculated in accordance with Article 6a of Directive 94/62/EC and the methodology set out in Decision 2005/270/EC, and in particular in Article 6c thereof.
2. For each Member State, the amount of the own resource based on non-recycled plastic packaging waste shall be calculated in euro.
3. The amount of the own resource based on non-recycled plastic packaging waste in a given year shall be determined based on the forecast referred to in Article 5(4).

## CHAPTER IV

**MAKING AVAILABLE THE OWN RESOURCE BASED ON NON-RECYCLED PLASTIC PACKAGING WASTE***Article 7***Treasury and accounting arrangements**

Article 9 of Regulation (EU, Euratom) No 609/2014 shall apply *mutatis mutandis* to the own resource based on non-recycled plastic packaging waste.

*Article 8***Making available the own resource based on non-recycled plastic packaging waste**

1. The amounts calculated in accordance with Article 6 for each calendar year shall be credited on the first working day of each month. Those amounts shall be one-twelfth of the relevant totals in the budget, converted into national currencies at the rate of exchange on the last day of quotation of the calendar year preceding the budget year, as published in the *Official Journal of the European Union*, C series.
2. The amounts referred to in paragraph 1 of this Article shall be entered in the account referred to in Article 9(1) of Regulation (EU, Euratom) No 609/2014 on the first working day of the month.
3. Any change in the uniform call rate of the own resource based on non-recycled plastic packaging waste shall require the final adoption of an amending budget and shall give rise to readjustments of the twelfths that have been entered in the account referred to in Article 9(1) of Regulation (EU, Euratom) No 609/2014 since the beginning of the financial year.

Those readjustments shall be carried out when the first entry is made following the final adoption of the amending budget if it is adopted before the 16th of the month. Otherwise they shall be carried out when the second entry following the final adoption is made. By way of derogation from Article 10 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council <sup>(1)</sup>, those readjustments shall be entered in the accounts in respect of the financial year of the amending budget in question.

4. Calculation of the twelfths for January of each financial year shall be based on the amounts provided for in the draft budget, referred to in Article 314(2) of the Treaty on the Functioning of European Union and converted into national currencies at the rate of exchange on the first day of quotation following 15 December of the calendar year preceding the budget year; the adjustment shall be made with the entry for the following month.
5. If the budget has not been finally adopted at the latest two weeks before the entry for January of the following financial year, the Member States shall enter on the first working day of each month, including January, one-twelfth of the amounts of the own resource based on non-recycled plastic packaging waste entered in the last budget finally adopted; the adjustment shall be made on the first due date following the final adoption of the budget if it is adopted before the 16th of the month. Otherwise, the adjustment shall be made on the second due date following the final adoption of the budget.

<sup>(1)</sup> 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).

## Article 9

**Adjustments to the own resource based on non-recycled plastic packaging waste of previous financial years**

1. On the basis of the annual statement providing the calculation of the amount of the own resource based on non-recycled plastic packaging waste, referred to in Article 5(5), each Member State shall, in the year following that in which that statement was sent, be debited or credited with an amount calculated as the difference between the amounts in the forecast for a given year and the real amounts in the statement for that same year.

2. For each Member State, the Commission shall calculate the difference between the amounts resulting from the adjustments referred to in paragraph 1 and the product of multiplying the total amounts of adjustments by the percentage that the GNI of that Member State represents of the GNI of all Member States, as applicable on 15 January to the budget in force for the year following that in which the data for the adjustments was supplied (the 'net amount').

For the purposes of the calculation referred to in the first subparagraph, amounts shall be converted between the national currency and the euro at the rate of exchange on the last day of quotation of the calendar year preceding the year of entry in the accounts, as published in the *Official Journal of the European Union*, C series.

The Commission shall inform the Member States of the amounts resulting from the calculation referred to in the first subparagraph of this paragraph before 1 February of the year following that in which the data for the adjustments was supplied. Each Member State shall enter the net amount in the account referred to in Article 9(1) of Regulation (EU, Euratom) No 609/2014 on the first working day of June of that same year.

3. Any adjustments to the statements referred to in Article 5(5) of this Regulation for previous financial years that result from inspections shall give rise to a particular adjustment of the entries in the account referred to in Article 9(1) of Regulation (EU, Euratom) No 609/2014. The Commission shall inform the Member State concerned in a letter about the necessary adjustment. The amount corresponding to that adjustment shall be made available on the date specified by the Commission in that letter.

4. The Member State concerned may request the Commission to review the adjustment communicated in the letter referred to in paragraph 3 within two months from the day of the receipt of that letter. The review shall be concluded with a decision to be adopted by the Commission at the latest three months from the day of receipt of the Member State's request.

Where the Commission's decision reviews the amounts in full or partially corresponding to the adjustment communicated in the letter referred to in paragraph 3, the Member State shall make available the corresponding amount. Neither the Member State's request to review the adjustment nor an action for annulment against the Commission's decision shall affect the Member State's obligation to make available the amount corresponding to the adjustment.

5. The Commission may adopt implementing acts further specifying the procedure for the review referred to in paragraph 4 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(3).

6. After 31 July of the fifth year following a given financial year, changes shall no longer be taken into account, except on points notified within that time limit either by the Commission or by the Member State.

7. The operations referred to in this Article constitute revenue operations in respect of the financial year in which they are to be entered in the account referred to in Article 9(1) of Regulation (EU, Euratom) No 609/2014.

*Article 10***Bringing twelfths forward**

1. For the specific needs of paying expenditure of the European Agricultural Guarantee Fund pursuant to Regulation (EU) No 1307/2013 of the European Parliament and of the Council <sup>(12)</sup>, and depending on the Union's cash position, Member States may be invited by the Commission to bring forward, by up to two months in the first quarter of the financial year, the entry of one-twelfth, or a fraction thereof, of the amounts in the budget for the own resource based on non-recycled plastic packaging waste.
2. Subject to paragraph 3, for the specific needs of paying expenditure of the European Structural and Investment Funds pursuant to Regulation (EU) No 1303/2013 of the European Parliament and of the Council <sup>(13)</sup>, and depending on the Union's cash position, Member States may be invited by the Commission to bring forward, in the first six months of the financial year, the entry of up to an additional half of one-twelfth of the amounts in the budget for the own resource based on non-recycled plastic packaging waste.
3. The total amount that Member States may be invited by the Commission to bring forward in the same month under paragraphs 1 and 2 shall, in any event, not exceed an amount corresponding to two additional twelfths.
4. After the first six months, the monthly entry requested shall not exceed one-twelfth of the own resource based on non-recycled plastic packaging waste, while remaining within the limit of the amounts entered in the budget for that purpose.
5. The Commission shall notify the Member States thereof in advance, no later than two weeks before an entry requested pursuant to paragraphs 1 and 2.
6. The Commission shall inform the Member States well in advance, and no later than six weeks before an entry requested pursuant to paragraph 2, of its intention to request such an entry.
7. Article 8(4), concerning the amount to be entered in January each year, and Article 8(5), applicable if the budget has not been finally adopted before the beginning of the financial year, shall apply to the advance entries referred to in paragraphs 1 and 2.

*Article 11***Interest on amounts made available belatedly**

1. For the own resource based on non-recycled plastic packaging waste, interest shall be payable only in relation to delays in entering the following amounts:
  - (a) the amounts referred to in Article 8;
  - (b) the amounts resulting from the calculation referred to in Article 9(1), at the moment specified in the third subparagraph of Article 9(2);
  - (c) the amounts resulting from particular adjustments referred to in Article 9(3);
  - (d) amounts resulting from attributable failure of a Member State to provide data as requested in this Regulation.

<sup>(12)</sup> 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).

<sup>(13)</sup> Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).



For the purposes of point (d) of the first subparagraph, the interest on the adjustments resulting from the corrections made due to failure of a Member State to provide data shall be calculated as from the first working day of June of the year following that, in which the time limit set by the Commission expired.

A Member State shall be released from the obligation to pay interest for the failure referred to in point (d) of the first subparagraph if that failure is based either on reasons of force majeure or on other reasons which cannot be attributed to the Member State concerned.

Disputes between a Member State and the Commission as to whether the alleged failure referred to in point (d) of the first subparagraph of this paragraph can be attributed to the Member State shall be resolved by the review referred to in Article 9(4).

2. Where a Member State initiates the review referred to in Article 9(4), interest shall be calculated as from the date specified by the Commission in accordance with Article 9(3).
3. The recovery of amounts of interest below EUR 500 shall be waived.
4. Interest shall be levied at the rates and conditions provided for in Article 12(4) and (5) of Regulation (EU, Euratom) No 609/2014.
5. For the payment of interest referred to in paragraph 1 of this Article, Article 9(2) and (3) of Regulation (EU, Euratom) No 609/2014 shall apply *mutatis mutandis*.

## CHAPTER V

### MANAGEMENT OF CASH RESOURCES

#### Article 12

#### **Requirements on management of cash resources and execution of payment orders**

Articles 14 and 15 of Regulation (EU, Euratom) No 609/2014 shall apply *mutatis mutandis* to the own resource based on non-recycled plastic packaging waste.

## CHAPTER VI

### FINAL PROVISIONS

#### Article 13

#### **Expert group**

The Commission shall establish a formal expert group composed of representatives of all Member States and chaired by a representative of the Commission. The tasks of the formal expert group shall be to advise the Commission and to express its views with regard to the comparability, reliability and exhaustiveness of the statistics on plastic packaging waste generated and recycled, to advise the Commission on preparing measures to make the data more comparable and more reliable and to issue annual opinions on the appropriateness of the plastic packaging waste data submitted by the Member States for the purposes of the own resource based on non-recycled plastic packaging waste. The formal expert group shall be registered in the Commission's register of expert groups, and the transparency of its composition and work shall be ensured.

*Article 14***Committee procedure**

1. The Commission shall be assisted by the committee established in accordance with Article 21(1) of Directive 94/62/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

*Article 15***Transitional provisions**

In order to perform the calculation referred to in Article 6, each Member State shall, by the last day of the second month following the entry into force of this Regulation, provide the Commission with forecasts of the weight of plastic packaging waste that is not recycled from 2021 onwards and until the year following the entry into force of this Regulation. In the years 2021 and 2022, Member States may provide their forecasts of the weight of plastic packaging waste that is not recycled, calculated in accordance with Directive 94/62/EC as amended by Directive (EU) 2015/720 of the European Parliament and of the Council <sup>(14)</sup> and the methodology set out in Decision 2005/270/EC as amended by Commission Implementing Decision (EU) 2018/896 <sup>(15)</sup>, and in particular Article 5 thereof.

*Article 16***Entry into force**

This Regulation shall enter into force on the date of entry into force of Decision (EU, Euratom) 2020/2053.

It shall apply from 1 January 2021.

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

Done at Brussels, 30 April 2021.

*For the Council*  
*The President*  
A. P. ZACARIAS

---

<sup>(14)</sup> Directive (EU) 2015/720 of the European Parliament and of the Council of 29 April 2015 amending Directive 94/62/EC as regards reducing the consumption of lightweight plastic carrier bags (OJ L 115, 6.5.2015, p. 11).

<sup>(15)</sup> Commission Implementing Decision (EU) 2018/896 of 19 June 2018 laying down the methodology for the calculation of the annual consumption of lightweight plastic carrier bags and amending Decision 2005/270/EC (OJ L 160, 25.6.2018, p. 6).

**COMMISSION DELEGATED REGULATION (EU) 2021/771****of 21 January 2021****supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council by laying down specific criteria and conditions for the checks of documentary accounts in the framework of official controls in organic production and the official controls of groups of operators****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 <sup>(1)</sup>, and in particular Article 38(8)(a)(i) and (ii) thereof,

Whereas:

- (1) In order to ensure the integrity of organic production, it is necessary to lay down specific criteria and conditions for the performance of official controls conducted to ensure the traceability at all stages of production, preparation and distribution, and compliance with Regulation (EU) 2018/848, in particular with regard to the physical on-the-spot inspection of the organic operators or groups of operators as referred to in Article 38(3) of that Regulation. In order to be effective, that physical on-the-spot inspection should at least include a traceability check and a mass balance check by means of checks of documentary accounts. The traceability check is intended to confirm whether products received or sent by the operator or group of operators are organic or in-conversion. The purpose of the mass balance check is to determine the balance between the input and output of the operator or group of operators and, in particular, the plausibility of the volumes of organic or in-conversion products. The elements to be covered by the traceability check and the mass balance check should be laid down.
- (2) For the purpose of official controls, the concept of group of operators as laid down in Article 36(1) of Regulation (EU) 2018/848 consists of a specific category of operators who are farmers or operators that produce algae or aquaculture animals and who in addition may be engaged in processing, preparation or placing on the market of food or feed. Each group of operators has to establish a system for internal controls (ICS) comprising a documented set of control activities. The competent authority or, where appropriate, the control authority or control body, should be appropriately qualified to assess the ICS and carry out re-inspections on a risk based sample of the members of the group of operators in order to make a conclusion on the overall compliance of the group. Therefore, it is necessary to lay down requirements for the competence of the competent authority or, where appropriate, the control authority or control body, to assess that specific composition of operators within a group as well as the ICS, for a harmonised framework for the assessment of the ICS and for the selection of the sample of the members for the re-inspections.
- (3) In the interest of clarity and legal certainty, this Regulation should apply from the date of application of Regulation (EU) 2018/848,

HAS ADOPTED THIS REGULATION:

*Article 1***Checks of documentary accounts**

1. The physical on-the-spot inspection pursuant to Article 38(3) of Regulation (EU) 2018/848 shall include a traceability check and a mass balance check of the operator or group of operators carried out by means of checks of documentary accounts.

---

<sup>(1)</sup> OJ L 150, 14.6.2018, p. 1.

2. The competent authority, or where appropriate, the control authority or control body shall perform the traceability and mass balance check according to the standard template documented in the written record referred to in Article 38(6) of Regulation (EU) 2018/848.
3. For the purpose of the traceability check and mass balance check, the selection of products, groups of products and period under verification shall be made on a risk basis.
4. The traceability check shall cover at least the following elements justified by appropriate documents including stock and financial records:
  - (a) the name and address of the supplier and, where different, of the owner or the seller, or the exporter of the products;
  - (b) the name and address of the consignee and, where different, of the buyer or importer of the products;
  - (c) the certificate of the supplier in accordance with Article 35(6) of Regulation (EU) 2018/848;
  - (d) the information referred to in the first paragraph of point 2.1 of Annex III to Regulation (EU) 2018/848;
  - (e) the appropriate lot identification.
5. Where relevant, the mass balance check shall cover at least the following elements justified by appropriate documents including stock and financial records:
  - (a) the nature and the quantities of products delivered to the unit and, where relevant, of materials bought and the use of such materials, and, where relevant, the composition of products;
  - (b) the nature and the quantities of products held in storage at the premises;
  - (c) the nature and the quantities of the products that have left the unit of operator or group of operators to the consignee's premises or storage facilities;
  - (d) in case of operators who buy and sell the product(s) without physically handling the product(s), the nature and the quantities of products that have been bought and sold, and the suppliers, and where different, the sellers or the exporters and the buyers, and where different, the consignees;
  - (e) the yield of the products obtained, collected or harvested over the previous year;
  - (f) the actual yield of the products obtained, collected or harvested over the current year;
  - (g) the number and/or weight in case of livestock managed over the current and previous year;
  - (h) any losses, increase or decrease in quantity of products at any stage of production, preparation and distribution;
  - (i) organic or in-conversion products that are sold on the market as non-organic.

## *Article 2*

### **Official controls of groups of operators**

1. In order to certify and verify the compliance of a group of operators, the competent authority or, where appropriate, the control authority or control body, shall assign inspectors competent to assess systems for internal controls (ICS).
2. For the purpose of evaluating the set-up, functioning and maintaining of the ICS of a group of operators, the competent authority or, where appropriate, the control authority or control body, shall determine at least that:
  - (a) the documented procedures of the ICS that have been put in place comply with the requirements established in Regulation (EU) 2018/848;
  - (b) the list of members of the group of operators with the required information for each member is continuously updated and aligned with the scope of the certificate;
  - (c) all members of the group of operators comply with the criteria set out in Article 36(1)(a), (b) and (e) of Regulation (EU) 2018/848 throughout their participation in the group of operators;

- (d) the number, training and competence of ICS inspectors are proportionate and adequate and ICS inspectors are without conflicts of interest;
  - (e) the internal inspections of all members of the group of operators and their activities and production units or premises including purchase and collection centres have been carried out at least annually and are documented;
  - (f) new members or new production units and new activities of existing members, including new purchase and collection centres, have been accepted only after they have been approved by the ICS manager on the basis of the internal inspection report according to the ICS documented procedures that have been put in place;
  - (g) the ICS manager takes appropriate measures in case of non-compliance, including their follow up, according to the ICS documented procedures that have been put in place;
  - (h) the ICS manager's notifications to the competent authority or, where appropriate, the control authority or control body, are appropriate and sufficient;
  - (i) the internal traceability for all products and members of the group of operators is ensured by estimating quantities and by cross-checking the yields of each member of the group of operators;
  - (j) the members of the group of operators receive adequate training on the ICS procedures and the requirements of Regulation (EU) 2018/848.
3. The competent authority or, where appropriate, the control authority or control body, shall apply risk assessment to select the sample of the members of the group of operators for the re-inspections in accordance with Article 38(4)(d) of Regulation (EU) 2018/848. In doing so, it shall take into account at least the volume and the value of the production and the assessment of the likelihood of non-compliance with the provisions of Regulation (EU) 2018/848. Re-inspections shall be carried out physically on the spot with the presence of the members selected.
4. The competent authority or, where appropriate, the control authority or control body, shall allocate reasonable time for the control of a group of operators, proportional to the type, structure, size, the products, the activities and output of organic production of the group of operators.
5. The competent authority or, where appropriate, the control authority or control body, shall carry out witness audits in order to verify the competence and knowledge of ICS inspectors.
6. The competent authority or, where appropriate, the control authority or control body, shall assess whether there is a failure of the ICS based on the number of non-compliances undetected by the ICS inspectors and the result of the investigation of the cause and the nature of the non-compliances.

### Article 3

#### Entry into force and application

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

It shall apply from 1 January 2022.

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

Done at Brussels, 21 January 2021.

For the Commission  
The President  
Ursula VON DER LEYEN

---

**COMMISSION IMPLEMENTING REGULATION (EU) 2021/772****of 10 May 2021****amending Implementing Regulation (EU) 2020/977 as regards the temporary measures in relation to controls on the production of organic products, in particular the period of application****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 <sup>(1)</sup>, and in particular Article 28(6), the third subparagraph of Article 30(2) and Article 38(c), (d) and (e) thereof,

Whereas:

- (1) The COVID-19 pandemic and the extensive movement restrictions put in place in the Member States and in third countries in the form of national measures constitute an exceptional and unprecedented challenge for Member States and operators in relation to performing controls as specified in Regulation (EC) No 834/2007 and Commission Regulations (EC) No 889/2008 <sup>(2)</sup> and (EC) No 1235/2008 <sup>(3)</sup>.
- (2) In order to address the specific circumstances due to the ongoing crisis related to the COVID-19 pandemic, Commission Implementing Regulation (EU) 2020/977 <sup>(4)</sup> allows Member States to apply temporary measures that derogate from Regulations (EC) No 889/2008 and (EC) No 1235/2008 in relation to the control system on the production of organic products and certain procedures provided for in the Trade Control and Expert System (TRACES).
- (3) Member States have informed the Commission that, in view of the crisis linked to the COVID-19 pandemic, certain serious disruptions in the functioning of their control systems in the organic sector will persist beyond 1 February 2021.
- (4) In addition, as regards official controls and other official activities within the scope of Regulation (EU) 2017/625 of the European Parliament and of the Council <sup>(5)</sup>, Commission Implementing Regulation (EU) 2020/466 <sup>(6)</sup> allows Member States to apply temporary measures to avoid serious health risks for the staff of the competent authorities, in view of the difficulties to perform those controls and activities and to the extent necessary to manage the related

<sup>(1)</sup> OJ L 189, 20.7.2007, p. 1.

<sup>(2)</sup> Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ L 250, 18.9.2008, p. 1).

<sup>(3)</sup> Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries (OJ L 334, 12.12.2008, p. 25).

<sup>(4)</sup> Commission Implementing Regulation (EU) 2020/977 of 7 July 2020 derogating from Regulations (EC) No 889/2008 and (EC) No 1235/2008 as regards controls on the production of organic products due to the COVID-19 pandemic (OJ L 217, 8.7.2020, p. 1).

<sup>(5)</sup> Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) (OJ L 95, 7.4.2017, p. 1).

<sup>(6)</sup> Commission Implementing Regulation (EU) 2020/466 of 30 March 2020 on temporary measures to contain risks to human, animal and plant health and animal welfare during certain serious disruptions of Member States' control systems due to coronavirus disease (COVID-19) (OJ L 98, 31.3.2020, p. 30).

serious disruptions of the control systems of the Member States. The period of application of that Regulation has been prolonged until 1 July 2021 by Commission Implementing Regulation (EU) 2021/83 <sup>(7)</sup>. It is therefore appropriate that the derogations provided for in Implementing Regulation (EU) 2020/977 continue to apply for the same period as provided for in Implementing Regulation (EU) 2020/466.

- (5) Article 1(6) of Implementing Regulation (EU) 2020/977 sets a lower percentage than point (c) of the second subparagraph of Article 92c(2) of Regulation (EC) No 889/2008 as regards the inspections and visits in accordance with Article 65(1) and (4) of Regulation (EC) No 889/2008 that are to be carried out unannounced. In order to ensure that those inspections and visits can actually take place and under safe circumstances, it is appropriate to create the possibility to provide for a 24 hours' notice for those unannounced inspections and visits.
- (6) Implementing Regulation (EU) 2020/977 should therefore be amended accordingly.
- (7) There is a need not to disrupt the application of the provisions of Implementing Regulation (EU) 2020/977 that is extended by this Regulation. It is therefore appropriate to provide for a retroactive application of this Regulation from 1 February 2021 in that respect.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Organic Production,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Implementing Regulation (EU) 2020/977 is amended as follows:

(1) Article 1 is amended as follows:

(a) in paragraph 6, the following subparagraph is added:

'However, a short notice of maximum 24 hours in advance of such inspections and visits may be provided in order to ensure that the inspectors have access to the premises of the operator and under safe circumstances.');

(b) in paragraph 7, the date '1 February 2021' is replaced by '1 July 2021'.

(2) Article 3 is amended as follows:

(a) in the second, third and fifth paragraphs, the date '1 February 2021' is replaced by '1 July 2021';

(b) in the fourth paragraph, the date '31 December 2020' is replaced by '1 July 2021'.

#### *Article 2*

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)(b) and (2) shall apply from 1 February 2021.

<sup>(7)</sup> Commission Implementing Regulation (EU) 2021/83 of 27 January 2021 amending Implementing Regulation (EU) 2020/466 as regards the performance of official controls and other official activities by specifically authorised natural persons and the period of application of temporary measures (OJ L 29, 28.1.2021, p. 23).

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

Done at Brussels, 10 May 2021.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

---





ISSN 1977-0677 (electronic edition)  
ISSN 1725-2555 (paper edition)



Publications Office  
of the European Union  
L-2985 Luxembourg  
LUXEMBOURG

**EN**