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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Special Committee on Agriculture/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013 - Outcome of the European Parliament's first reading (Strasbourg, 22 to 25 November 2021)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint declaration on practical arrangements for the codecision procedure[1], a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

In this context, the Chair of the Committee on Agriculture and Rural Development, Norbert LINS (EPP, DE), presented on behalf of the Committee a compromise amendment (amendment number 304) to the abovementioned proposal for a Regulation and two amendments (amendments number 305 and 306) to the legislative resolution containing statements. These amendments had been agreed during the informal contacts referred to above. No other amendments were tabled.

1 OJ C 145, 30.6.2007, p. 5.

II. VOTE

When it voted on 23 November 2021, the plenary adopted the compromise amendment (amendment number 304) to the abovementioned proposal for a Regulation, as well as amendments 305 and 306 to the legislative resolution. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto[2].

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

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[2] The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics.*** The symbol " ▌ " indicates deleted text.

ANNEX
(23.11.2021)

Common agricultural policy: financing, management and monitoring ***I

European Parliament legislative resolution of 23 November 2021 on the proposal for a regulation of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013 (COM(2018)0393 – C8-0247/2018 – 2018/0217(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2018)0393),

– having regard to Article 294(2) and Article 43(2) and Article 322(1), point (a), of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0247/2018),

– having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the opinion of the Court of Auditors of 25 October 2018[3],

– having regard to the opinion of the European Economic and Social Committee of 17 October 2018[4],

– having regard to the opinion of the Committee of the Regions of 5 December 2018[5],

– having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure, and the undertaking given by the Council representative by letter of 23 July 2021 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

– having regard to Rules 59 and 40 of its Rules of Procedure,

– having regard to the opinions of the Committee on Development, the Committee on Budgets, the Committee on Budgetary Control and the Committee on Regional Development,

– having regard to the report of the Committee on Agriculture and Rural Development (A8-0199/2019),

1. Adopts its position at first reading hereinafter set out[6];

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3 OJ C 41, 1.2.2019, p. 1.
4 OJ C ***62, 15.2.2019,*** p. ***214.***
5 OJ C ***86, 7.3.2019,*** p. ***173.***

2. Approves its statement as well as the joint statement by Parliament and the Commission and the joint statement by Parliament, the Council and the Commission annexed to this resolution, which will be published in the C series of the *Official Journal of the European Union*;

3. Takes note of the statements by the Commission annexed to this resolution, which will be published in the C series of the *Official Journal of the European Union*;

4. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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6 This position replaces the amendments adopted on 23 October 2020 (Texts adopted, P9_TA(2020)0288).

P9_TC1-COD(2018)0217

Position of the European Parliament adopted at first reading on 23 November 2021 with a view to the adoption of Regulation (EU) 2021/… of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) ***and Article 322(1), point (a),*** 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 opinion of the Court of Auditors[7],

Having regard to the opinion of the European Economic and Social Committee[8],

Having regard to the opinion of the Committee of the Regions[9],

Acting in accordance with the ordinary legislative procedure[10],

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7 OJ C 41, 1.2.2019, p. 1.
8 OJ C ***62, 15.2.2019,*** p. ***214.***
9 OJ C ***86, 7.3.2019,*** p. ***173.***
10 Position of the European Parliament of 23 November 2021.

Whereas:

(1) The ***Commission*** communication ***of 29 November 2017*** entitled 'The Future of Food and Farming' ▌ concludes that the common agricultural policy (CAP) should continue to step up its response to future challenges and opportunities by boosting employment, growth and investment, by fighting and adapting to climate change and by bringing research and innovation out of the laboratories and onto fields and markets. The CAP should furthermore address citizens' concerns regarding sustainable agricultural production.

(2) In accordance with Article 208 of the Treaty on the Functioning of the European Union (TFEU), the implementation of the CAP should take account of the objectives of the United Nations 2030 Agenda for Sustainable Development, including the Union's obligations on climate change mitigation and development cooperation.

(3) The current CAP's compliance-driven delivery model should be adjusted to ensure a greater focus on results and performance. Accordingly, the Union should set the basic policy objectives, types of intervention and basic Union requirements while greater responsibility and accountability for meeting those objectives should be borne by the Member States. As a consequence, there is a need to ensure greater subsidiarity ***and flexibility*** in order to take better account of the local conditions and needs. Accordingly, under the new CAP delivery model, Member States should be responsible for tailoring their CAP interventions in line with ***their specific needs and*** basic Union requirements in order to maximise their contribution to Union's CAP objectives***. In order to continue to ensure a common approach and a level playing field, Member States should also*** establish and design the compliance and control framework for beneficiaries***, including compliance with standards for good agricultural and environmental conditions and statutory management requirements***.

(4) The CAP encompasses various interventions and measures, many of which are covered by the CAP Strategic Plans referred to in Title III of Regulation (EU) 2021/… of the European Parliament and of the Council[11+]. Others still follow the traditional compliance logic. It is important to provide financing for all interventions and measures in order to contribute to the achievement of the objectives of the CAP. Both of those interventions and measures have certain elements in common, therefore their financing should be dealt with in the same set of provisions. However, where necessary, those provisions should allow for different treatment. Regulation (EU) No 1306/2013 of the European Parliament and of the Council[12] governs two European agricultural funds, namely the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD). Those two funds should be maintained in this Regulation. In view of the scope of the current CAP reform, it is appropriate to replace Regulation (EU) No 1306/2013.

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11 Regulation (EU) 2021/… of the European Parliament and of the Council of ... establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013 (OJ L ...).

\+ OJ: Please insert in the text the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)) and in the corresponding footnote the number, date of adoption and publication reference of that Regulation.

12 Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549).

(5) The provisions of Regulation (EU, Euratom) ***2018/1046*** of the European Parliament and of the Council ▌[13] ***('the Financial Regulation')***, in particular those governing shared management with Member States, the function of accredited bodies and the budgetary principles, should apply to the interventions and measures set out in this Regulation.

(6) In order to harmonise practices among Member States as regards the application of the force majeure clause, this Regulation should, where appropriate, provide for exemptions from the CAP rules in cases of force majeure and exceptional circumstances, as well as for a non-exhaustive list of possible cases of force majeure and exceptional circumstances to be recognised by the national competent authorities. National competent authorities should take decisions on force majeure or exceptional circumstances on a case-by-case basis, on the basis of relevant evidence.

(7***) Furthermore, this Regulation should provide for exemptions from the CAP rules in cases of force majeure and exceptional circumstances, such as in the case of a severe meteorological event gravely affecting the holding of the beneficiary on a level comparable to a severe natural disaster.***

[13] 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).***

(8) The general budget of the Union ('the Union budget') should finance CAP expenditure, including expenditure on the CAP Strategic Plan interventions under Title III of Regulation (EU) 2021/…[+], either directly through the EAGF and EAFRD or in the context of shared management with the Member States. The types of expenditure that can be financed using those two funds should be specified.

(***9***) In order to achieve the objectives of the CAP laid down in Article 39 ***TFEU***, and to comply with the principle of shared management provided for in Article ***63*** of ***the Financial*** Regulation ▌, Member States should ensure that the necessary governance systems are in place. Provision should therefore be made in this Regulation for designating governance bodies, namely the competent authority, paying agency, coordinating body and certification body.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(***10***) It is necessary to provide for the accreditation of paying agencies and for the designation and accreditation of coordinating bodies by Member States and for the establishment of the procedures for obtaining management declarations***, the annual clearance documents, an annual summary of the final audit reports,*** and performance reports, and for obtaining the certification of management and monitoring systems, of reporting systems and the certification of annual accounts by independent bodies. Moreover, in order to ensure the transparency of the system of checks to be carried out at national level, in particular as regards procedures for authorisation, validation and payment, and to reduce the administrative and audit burden for the Commission and for the Member States where accreditation of each individual paying agency is required, the number of authorities and bodies to which those responsibilities are delegated should be restricted while respecting the constitutional provisions of each Member State. ***Where a Member State's constitutional framework provides for regions, that Member State should have the possibility to accredit regional paying agencies, under certain conditions.***

(***11***) Where a Member State accredits more than one paying agency, it should designate a single public coordinating body in order to ensure consistency in the management of the EAGF and EAFRD, to provide for a liaison between the Commission and the various accredited paying agencies, and to ensure that the information requested by the Commission concerning the operations of several paying agencies is provided promptly. That coordinating body should also take and coordinate actions with a view to resolving any deficiencies of a common nature encountered at national level, should keep the Commission informed of any follow-up***, and should ensure the harmonised application of the Union rules, taking account of any limitation or restrictions due to the constitutional provisions in force***.

(*12*) Involving paying agencies that have been accredited by the Member States is a crucial prerequisite under the new CAP delivery model for having reasonable assurance that the objectives and targets set out in the relevant CAP Strategic Plans will be achieved by the interventions financed by the Union budget. It should, therefore, be explicitly provided in this Regulation that only expenditure effected by accredited paying agencies can be reimbursed from the Union budget. In addition, the expenditure financed by the Union for the interventions referred to in Regulation (EU) 2021/...[+] should have a corresponding output regarding, and should comply with, the basic Union requirements and the governance systems.

(13) In order to have an overview of public and private certification bodies and to have up-to-date information on those that are active, the Commission should receive information from the Member States and keep an up-to-date registry of those bodies. In order for the European Parliament to have accurate and up-to-date information as well, it is necessary for the Commission to communicate to it annually the list of the designated certification bodies.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(***14***) In the context of respecting budgetary discipline, it is necessary to define the annual ceiling for the expenditure financed by the EAGF by taking into account the maximum amounts laid down for the EAGF under the multiannual financial framework provided for in Council Regulation (EU, Euratom) ***2020/2093***[14].

(***15***) Budgetary discipline also requires the annual ceiling for expenditure financed by the EAGF to be respected in all circumstances and at every stage of the budget procedure and of the implementation of the budget. Consequently, it is necessary for the national ceiling for the direct payments for each Member State set out in Regulation (EU) 2021/…[+] to be regarded as a financial ceiling for such direct payments for the Member State concerned and for the reimbursement of those payments to remain within that financial ceiling.

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[14] ***Council*** Regulation (EU, Euratom) ***2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).***

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(***16***) With a view to ensuring that the amounts for the financing of the CAP comply with the annual ceilings, the financial discipline mechanism by which the level of direct support is adjusted should be maintained. ▌ An agricultural reserve should be maintained to support the agricultural sector in the event of market developments or crises affecting agricultural production or distribution. Article 12(2)***, point*** (d)***,*** of ***the*** Financial Regulation ▌ provides that non-committed appropriations may be carried over ▌ only to the following financial year, within the meaning of Article 9 of the Financial Regulation ('budgetary year'). In order to simplify significantly the implementation for beneficiaries and national administrations, a roll-over mechanism should be used, using any unused amounts of the reserve for crises in the agricultural sector established in the year ***2022.*** For that purpose***,*** a derogation from Article 12(2)***, point (d), of the Financial Regulation*** is necessary, allowing for non-committed appropriations of the agricultural reserve to be carried over ▌ to finance the agricultural reserve in the following budgetary ***years until*** the year ***2027.*** Furthermore, as regards the budgetary year ***2022,*** a ▌ derogation is necessary as the total unused amount of the reserve for crises in the agricultural sector available at the end of the budgetary year ***2022*** should be carried over to the budgetary year ***2023*** to the corresponding line of the new agricultural reserve established under this Regulation without being ***fully*** returned to the budgetary lines which cover direct payment interventions under the CAP Strategic Plan. ***However, in order to maximise the amounts to be reimbursed to farmers in the budgetary year 2023, all other availabilities under the EAGF sub-ceiling for the budgetary year 2023 set out in Regulation (EU, Euratom) 2020/2093 should be used first to set up the new agricultural reserve in the budgetary year 2023.***

(*17*) In order to avoid an excessive administrative burden for national administrations and farmers***, to simplify procedures as much as possible and to limit the complexity of aid application forms,*** reimbursement of the amounts carried over from the preceding agricultural financial year ('financial year') in relation to financial discipline applied should not take place either where financial discipline is applied for a second subsequent year (year N+1), or where the overall amount of non-committed appropriations represents less than 0,2 % of the EAGF annual ceiling.

▌

(*18*) The measures taken to determine the financial contribution from the EAGF and EAFRD in respect of the calculation of financial ceilings do not affect the powers of the budgetary authority designated by the TFEU. Those measures should therefore be based on the financial envelopes fixed in accordance with the Interinstitutional Agreement of ***16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources***[15].

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[15] ***OJ L 433 I, 22.12.2020, p. 28.***

(***19***) Budgetary discipline also requires a continuous examination of the medium-term budgetary position. The Commission should propose, if necessary, appropriate measures to the European Parliament and the Council in order to ensure that Member States comply with the ceilings provided for in Regulation (EU, Euratom) ***2020/2093.*** Furthermore, the Commission should make full use of its management powers at all times to ensure compliance with the annual ceiling and, if necessary, should propose appropriate measures to the European Parliament and to the Council, or only to the Council, as appropriate, to redress the budgetary position. If, at the end of a budgetary year, the annual ceiling cannot be complied with as a result of the reimbursements requested by the Member States, the Commission should be able to take measures allowing the provisional distribution of the available amounts among the Member States in proportion to their as yet unpaid requests for reimbursement, as well as measures ensuring compliance with the ceiling fixed for the year concerned. Payments for that year should be charged to the following budgetary year and the total amount of Union financing per Member State as well as any compensation to be carried out with respect to Member States should be definitively established in order to ensure that the established amount is complied with.

(***20***) When implementing the budget, the Commission should operate a monthly early-warning and monitoring system for agricultural expenditure so that, if there is a risk of the annual ceiling being exceeded, it may at the earliest opportunity take the appropriate measures under the management powers at its disposal and propose other measures if the earlier measures appear to be insufficient. A periodic report by the Commission to the European Parliament and to the Council should compare the evolution of the expenditure effected to date in relation to the profiles and should give an assessment of the foreseeable implementation for the remainder of the budgetary year.

(***21***) In respect of the EAGF, the financial resources required to cover the expenditure effected by the accredited paying agencies should be provided to the Member States by the Commission in the form of reimbursements against the booking of the expenditure effected by those agencies. Until such reimbursements have been made, in the form of monthly payments, financial resources should be mobilised by the Member States depending on the needs of their accredited paying agencies. It should be ***explicitly*** laid down in this Regulation that the administrative and personnel costs of the Member States and the beneficiaries involved in the implementation of the CAP are to be borne by those Member States and beneficiaries.

(***22***) In order to provide the Commission with, in particular, the means to manage agricultural markets, to facilitate the monitoring of agricultural expenditure and to monitor agricultural resources in the medium and long term, ***including those relating to the environment and climate change resilience and progress towards relevant Union targets,*** the use of the agro-meteorological system and the acquisition and improvement of satellite data should be provided for.

(***23) The Commission should be provided with the means to monitor markets, taking into account the Union's objectives and commitments, including policy coherence for development, contributing to transparency of markets.***

(24) As regards the financial management of the EAFRD, provision should be made with regard to budgetary commitments, payment deadlines, decommitment and interruptions. Interventions for rural development should be financed from the Union budget on the basis of commitments made in annual instalments. Member States should be able to draw on the Union funds provided for as soon as the CAP Strategic Plans are approved. A suitably restricted prefinancing system is therefore needed to ensure a steady flow of funds so that payments to beneficiaries under the interventions are made at the appropriate time.

(*25*) Apart from prefinancing, it is also necessary to make a distinction between interim payments and the payment of balances by the Commission to the accredited paying agencies. It is also necessary to lay down detailed rules governing those payments. The automatic decommitment rule should help to speed up execution of interventions and to contribute to sound financial management. The rules governing the national frameworks of Member States with regional interventions as set out in Regulation (EU) 2021/…[+] ▌ also provide a tool for Member States to ensure execution and sound financial management.

(*26*) Member States should ensure that Union aid is paid to beneficiaries in good time so that beneficiaries can use it efficiently. A failure by the Member States to comply with the payment deadlines laid down in Union law might create serious difficulties for the beneficiaries and could jeopardise the Union's yearly budgeting. Therefore, expenditure made without respecting deadlines for payments should be excluded from Union financing. However, in accordance with the principle of proportionality, the Commission should be able to provide for exceptions from that general rule with regard to the EAGF and EAFRD.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(27) ***When exercising its responsibilities relating to the implementation of the Union budget, the Commission should comply with the principle of proportionality, set out in Article 5 of the Treaty on European Union (TEU). Furthermore, it is necessary for the arrangements for the implementation and use of the EAGF and EAFRD to comply with that principle of proportionality and to take into account the overall aim of reducing the administrative burden on bodies involved in the management and control of the programmes.***

(28) In accordance with the architecture and the key characteristics of the new CAP delivery model, the eligibility of payments made by Member States for Union financing should no longer depend on the legality and regularity of payments to individual beneficiaries. Instead, as regards types of intervention referred to in Regulation (EU) 2021/…[+], ***and without prejudice to the specific eligibility rules for the crop-specific payment for cotton set out in that Regulation,*** Member States' payments should be eligible if they are matched by corresponding output and the applicable basic Union requirements are complied with.

(***29***) Regulation (EU) No 1306/2013 provides for reductions and suspensions of monthly or interim payments for the purpose of supporting the control of legality and regularity. With the new CAP delivery model, those tools should be used to support performance-based delivery. The difference between reductions and suspensions should also be clarified.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(***30***) The procedure for reducing EAGF payments for non-compliance with financial ceilings set by Union law should be streamlined and aligned with the procedure used for EAFRD payments in this context.

(***31***) Member States should send the annual accounts***,*** an annual performance report on the implementation of the CAP Strategic Plan***, the annual summary of the final audit reports and the management declaration*** to the Commission by 15 February ***every year.*** Where those documents are not sent, thus preventing the Commission from clearing the accounts for the concerned paying agency or checking the eligibility of the expenditure against reported outputs, the Commission should be able to suspend the monthly payments and to interrupt the quarterly reimbursement until the outstanding documents are received.

(***32***) A new form of payment suspension should be introduced for situations of abnormally low outputs. Where the outputs reported are at an abnormally low level in comparison with the declared expenditure and where Member States cannot provide duly justified reasons for that situation, the Commission should be able, in addition to reducing the expenditure for the financial year N-1, to suspend future expenditure related to the intervention for which the output was abnormally low. Such suspensions should be subject to confirmation in the annual performance clearance decision.

(***33***) As regards the multi-annual performance monitoring, the Commission should also be able to suspend payments. Accordingly, in cases of delayed or insufficient progress towards targets set out in a Member State's CAP Strategic Plan ***for which the Member State cannot provide duly justified reasons***, the Commission should be able to request the Member State concerned to take the necessary remedial actions in accordance with an action plan to be established in consultation with the Commission and containing clear progress indicators ***together with the timeframe during which the progress is to be achieved***. Where the Member State fails to submit or to implement the action plan***,*** where the action plan is manifestly insufficient to remedy the situation ***or where it has not been modified in accordance with the written request of the Commission***, the Commission should be able to suspend the monthly or interim payments. ***The Commission should reimburse the suspended amounts when, on the basis of the performance review or on the basis of the voluntary notification made during the budgetary year by the Member State on the advancement of the action plan and of the corrective action taken to remedy the shortfall, satisfactory progress towards targets is achieved.***

(34) Given the necessary transition to a result-oriented performance model, the request for an action plan by the Commission for the financial year 2025 should not lead to a suspension of payments before the performance review for the financial year 2026.

(***35***) As has been the case under Regulation (EU) No 1306/2013, the Commission should be able to suspend payments where serious deficiencies exist in the proper functioning of governance systems, including non-compliance with Union basic requirements and unreliability of reporting. It is, however, necessary to review the conditions for suspending payments in order to make the mechanism more efficient. The financial consequences of such suspensions should be decided in an ad-hoc conformity procedure.

(***36***) Competent national authorities should make the CAP payments provided for by Union law to the beneficiaries in full.

(***37***) In order to allow reuse of certain types of CAP-related revenue for the CAP purposes, they should be qualified as assigned revenue. The list of sums contained in Article 43 of Regulation (EU) No 1306/2013 should be amended and those provisions should be harmonised and merged with the existing provisions on assigned revenue.

(***38***) Regulation (EU) No 1306/2013 contains a list of information measures related to the CAP and their objectives and fixes the rules on their financing and on the implementation of the corresponding projects. The specific provisions relating to the objectives and types of information measures to be financed should be carried over into this Regulation.

(***39***) The financing of measures and interventions under the CAP is largely subject to the principle of shared management. To ensure that Union funds are soundly managed, the Commission should perform checks on how the Member States' authorities responsible for making payments manage the funds. It is appropriate to define the nature of the checks to be performed by the Commission, to specify the terms of its responsibilities for implementing the Union budget and to clarify the Member States' cooperation obligations.

(***40***) In order to enable the Commission to fulfil its obligation to check the existence and proper functioning of management and inspection systems for Union expenditure in the Member States, provision should be made, irrespective of the inspections carried out by Member States themselves, for checks to be carried out by persons authorised by the Commission to act on its behalf who should be able to request assistance from the Member States in their work.

(***41***) Information technology needs to be used as extensively as possible in order to produce the information to be sent to the Commission. When carrying out checks, the Commission should have full and immediate access to expenditure information recorded in both paper and electronic form.

(*42*) In order to apply the requirements of the ▌ Financial Regulation in relation to the cross-reliance on audits, to reduce the risk of overlap between audits by various institutions, ***and to minimise the cost of controls and the administrative burden on the beneficiaries and the Member States,*** it is necessary to set out rules concerning the single audit approach and provide for the possibility for the Commission to take assurance from the work of reliable certification bodies***, taking due account of the principles of single audit and proportionality in relation to the level of risk to the Union budget***.

(43) As regards the implementation of the single audit approach, whereas generally the Commission should take assurance from the work of the certification bodies, taking account of its own risk assessment of the need for checks it should perform in the Member State concerned, the Commission should be able to carry out checks where it has informed the Member State concerned that it cannot rely on the work of the certification body. Furthermore, the Commission, in order to perform its responsibilities under Article 317 TFEU, should be able to carry out checks where serious deficiencies in the proper functioning of the governance systems may exist which are not followed up by that Member State.

(***44***) In order to establish the financial relationship between the accredited paying agencies and the Union budget, the Commission should clear the accounts of the paying agencies annually, in the framework of the annual financial clearance. The decision relating to the clearance of accounts should be limited to the completeness, accuracy and veracity of the accounts and should not cover the conformity of the expenditure with Union law.

(***45***) In line with the new CAP delivery model, an annual performance clearance should be established in order to check the eligibility of the expenditure in relation to the reported outputs. In order to tackle situations where the expenditure declared does not have corresponding reported outputs and the Member States cannot provide justifications for that deviation, a mechanism of reduction of payments should be put in place.

(***46***) The Commission is responsible for the implementation of the Union budget in cooperation with Member States in accordance with Article 317 ***TFEU***. The Commission should thus be able to decide whether the expenditure effected by the Member States is in conformity with Union law. Member States should be given the opportunity to justify their decisions to make payments and should have recourse to conciliation where there is no agreement between them and the Commission. In order to give Member States legal and financial assurances as to expenditure effected in the past, a limitation period should be set for the Commission to decide what the financial consequences of non-conformity should be.

(47) Member States are obliged, under Article 9 of Regulation (EU) 2021/...[+], to implement their CAP Strategic Plans as approved by the Commission in accordance with Articles 118 and 119 of that Regulation. Since that obligation constitutes a basic Union requirement, the Commission should, where serious deficiencies in a Member State's implementation of its CAP Strategic Plan are detected, be able to decide to exclude from Union financing the expenditure at risk that is affected by such deficiencies.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(48) In order ▌ to safeguard the financial interests of the Union budget, Member States should put in place systems in order to ensure that interventions financed by the EAGF and EAFRD are actually carried out and are executed correctly, while maintaining the current robust framework for sound financial management. ***Those systems should include performing checks on beneficiaries by assessing their compliance with the eligibility criteria and other conditions, as well as obligations set out in the CAP Strategic Plans and applicable Union rules.***

(49) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 ▌ of the European Parliament and of the Council***[16] and*** Council ***Regulations*** (EC, Euratom) No 2988/95**[17]**, ▌ (Euratom, EC) No 2185/96**[18]** and ▌ (EU) 2017/1939**[19]**, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, to the imposition of administrative penalties.

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16 ***Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).***

17 Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, ***23.12.1995,*** p. 1).

18 Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L ***292, 15.11.1996,*** p. 2).

19 Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council[20]. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, to grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

[20] ***Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).***

(50) Member States should have the systems in place allowing them to report to the Commission, for the purpose of enabling OLAF to exercise its powers and ensure an efficient analysis of cases of irregularity, on detected irregularities and other cases of non-compliance with the conditions established by Member States in the CAP Strategic Plans, including fraud, and on their follow-up, as well as on the follow-up of OLAF investigations. To ensure the effective examination of complaints concerning the EAGF and EAFRD, Member States should have in place the necessary arrangements.

(51) In accordance with the principle of subsidiarity, Member States should, upon the request of the Commission, examine complaints submitted to the Commission falling within the scope of their CAP Strategic Plans and should inform the Commission of the results of those examinations. The Commission should ensure that complaints directly lodged with it are adequately followed up, in accordance with the discretionary power the Commission enjoys in deciding which cases to pursue[21].

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21 ***See in particular: judgment of the Court of 6 December 1989 in Case C-329/88, Commission of the European Communities v Hellenic Republic, ECLI:EU:C:1989:618; judgment of the Court of 1 June 1994 in Case C-317/92, Commission of the European Communities v Federal Republic of Germany, ECLI:EU:C:1994:212; judgment of the Court (First Chamber) of 6 October 2009 in Case C-562/07, Commission of the European Communities v Kingdom of Spain, ECLI:EU:C:2009:614; judgment of the Court of First Instance (Second Chamber) of 14 September 1995 in Case T-571/93, Lefebvre frères et sœurs, GIE Fructifruit, Association des Mûrisseurs Indépendants and Star fruits Cie v Commission of the European Communities, ECLI:EU:T:1995:163; judgment of the Court (Grand Chamber) of 19 May 2009 in Case C-531/06, Commission of the European Communities v Italian Republic, ECLI:EU:C:2009:315.***

(***52)*** ***In order to assist the Member States in ensuring effective protection of the financial interests of the Union, the Commission should make available to them a data-mining tool to assess risks. The Commission should present, by the year 2025, a report assessing the use of the single data-mining tool and its interoperability with a view to its generalised use by Member States,, accompanied, if necessary, by appropriate proposals.***

(53) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 ***TFEU*** apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes and indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union budget in the case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective Union funding.

(***54***) It is appropriate to ensure that the refusal or recovery of payments as a result of non-compliance with public procurement rules reflects the gravity of such non-compliance and respects the principle of proportionality, as expressed, for example, in the relevant guidelines established by the Commission for financial corrections to be made to expenditure financed by the Union under shared management for non-compliance with such rules. It is further appropriate to clarify that such non-compliance affects the legality and regularity of the transactions only up to the level of the part of the aid not to be paid or to be withdrawn.

(***55***) Various provisions of agricultural legislation require that security be lodged to ensure the payment of a sum due if an obligation is not met. In order to strengthen the framework for securities, a single horizontal rule should apply to all those provisions.

(*56*) Member States should set up and operate an integrated administration and control system (the 'integrated system') for certain interventions provided for in Regulation (EU) 2021/…[+] and for the measures referred to in Chapter IV of ***Regulation*** (EU) No 228/2013 of the European Parliament and of the Council[22] and in Chapter IV of Regulation (EU) No 229/2013 of the European Parliament and of the Council[23]. In order to improve the effectiveness and monitoring of Union support, Member States should be authorised to make use of the integrated system for other Union interventions.

(*57*) ***To ensure a level playing field between beneficiaries in different Member States, certain general rules should be introduced on controls and penalties at Union level.***

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

[22] Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 (OJ L 78, 20.3.2013, p. 23).

[23] Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 (OJ L 78, 20.3.2013, p. 41).

(58) The existing main elements of the integrated system and, in particular, the provisions concerning a system for identifying agricultural parcels, a geo-spatial and an animal-based application system, a system for identifying and registering payment entitlements, a system for recording the identity of beneficiaries and a control and penalty system should be maintained. Member States should continue to use data or information products provided by the Copernicus programme, in addition to information technologies such as Galileo and EGNOS, in order to ensure that comprehensive and comparable data is available throughout the Union for the purposes of monitoring agri-environment-climate policy***, including the CAP's impact, environmental performance, and progress towards Union targets,*** and for the purposes of boosting the use of full, free and open data and information captured by Copernicus Sentinels satellites and services. To that end, the integrated system should include also an area monitoring system.

(***59***) The integrated system, as part of the governance systems which should be in place in order to implement the CAP, should ensure that the aggregate data provided in the annual performance reporting is reliable and verifiable. Given the importance of a properly functioning integrated system, it is necessary to set quality requirements. Member States should carry out an annual quality assessment of the identification system for agricultural parcels, of the geo-spatial application system and of the area monitoring system. Member States should also address any deficiencies and, if so requested by the Commission, set up an action plan.

(***60)*** ***The*** Commission ***communications entitled 'The Future of Food and Farming', the 'European Green Deal', the 'Farm to Fork Strategy – for a fair, healthy and environmentally friendly food system' and 'EU Biodiversity Strategy for 2030 – Bringing nature back into our lives'*** set out the bolstering of environmental care and climate action and the contribution to the achievement of Union environmental and climate objectives ***and targets*** as a strategic orientation of the future CAP. Hence, sharing land-parcel identification system and other integrated administration and control system data has become necessary for environmental and climate purposes at national and Union level. Provision should therefore be made for sharing the data collected through the integrated system, which is relevant for environmental and climate purposes, between Member States' public authorities and with the Union institutions and bodies. In order to increase efficiency in using data available to different public authorities for the production of European statistics, it should also be provided that data from the integrated system is to be made available for statistical purposes to bodies which are part of the European Statistical System.

(***61***) The scrutiny of commercial documents of undertakings that receive or make payments can be a highly effective means of surveillance of transactions forming part of the system of financing by the EAGF. That scrutiny supplements other checks already carried out by the Member States. Furthermore, national provisions relating to scrutiny should be allowed to go beyond what is required by Union law.

(***62***) The documents that should be used as a basis for such scrutiny should be selected in such a way as to enable a full scrutiny to be carried out. The undertakings to be scrutinised should be chosen on the basis of the nature of the transactions carried out under their responsibility, and the breakdown per sector of the undertakings receiving or making payments should be selected according to their financial importance in the system of financing by the EAGF.

(***63***) It is necessary to set out the mandate of the officials responsible for carrying out the scrutiny and to define the obligations of undertakings to make commercial documents available to such officials for a specified period, as well as to supply any information that may be requested of them by the officials. It should also be possible for commercial documents to be seized in certain cases.

(***64***) Having regard to the international structure of agricultural trade and in the interest of the proper functioning of the internal market, it is necessary to organise cooperation among the Member States. It is also necessary to set up a centralised documentation system at Union level concerning undertakings which are established in third countries and which receive or make payments.

(***65***) While the Member States are responsible for adopting their own scrutiny programmes, it is necessary for those programmes to be communicated to the Commission so that it can assume its supervisory and coordinating role, ensuring that the programmes are adopted on the basis of appropriate criteria and guaranteeing that the scrutiny is concentrated on sectors or undertakings where the risk of fraud is high. It is essential for each Member State to designate a body or bodies responsible for monitoring the scrutiny of commercial documents and for coordinating that scrutiny. Those designated bodies should be independent of the departments that carry out the scrutiny prior to payment. Information collected in the course of that scrutiny should be protected by professional secrecy.

(***66***) Conditionality is an important element of the CAP ***which ensures that payments promote a high degree of sustainability and ensure a level playing field for farmers within Member States and within the Union,*** in particular with regard to the ***social,*** environmental and climate elements of the CAP but also concerning public health and animal ***welfare***. This implies that controls should be carried out and, where necessary, penalties should be applied to ensure the effectiveness of the conditionality system. To ***ensure such*** a level playing field between beneficiaries in different Member States, certain general rules on conditionality ***and*** on controls and penalties ***related to non-compliance*** should be introduced at Union level.

(***67***) To ensure that conditionality is enforced by Member States in a harmonised way, it is necessary to provide for a minimum control rate at Union level, while the organisation of competent control bodies and controls should be left to the discretion of Member States.

(***68***) While Member States should be allowed to set out the details on penalties, those penalties should be proportionate, effective and dissuasive and should be without prejudice to other penalties laid down under Union or national law. ***To ensure the proportionality, effectiveness and dissuasive effect of the penalties, it is appropriate to lay down the rules for the application and calculation of such penalties. Taking into account the judgment of the Court of Justice of the European Union (´Court of Justice´) in case C-361/19[24], to ensure the link between the farmer's behaviour and the penalty, it should be laid down that, as a general rule, the penalty should be calculated on the basis of the payments granted or to be granted in the calendar year in which the non-compliance occurred. However, where the nature of the finding does not allow for the year in which the non-compliance occurred to be established, in order to ensure the effectiveness of the penalty system, it is necessary to establish that, for those cases, the penalty should be calculated on the basis of the payments granted or to be granted in the calendar year in which the non-compliance was detected.*** To ensure an effective and coherent approach by Member States, it is necessary to provide for a minimum penalty rate at Union level for non-compliance. ***Such minimum rates should be applied by Member States depending on the severity, extent, permanence or reoccurrence and intentionality of the non-compliance determined.*** To ensure proportionality of the penalties, Member States should ***provide that no penalties are to be applied*** where the non-compliance ***has no or only insignificant consequences for the achievement of the objective of the standard or requirement concerned, and set up an awareness mechanism to ensure that beneficiaries are informed about the non-compliance detected and possible remedial actions to be taken***.

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24 Judgment of the Court of Justice of 27 January 2021, *De Ruiter vof v Minister van Landbouw, Natuur en Voedselkwaliteit*, C-361/19, ***ECLI:EU:C:2021:71.***

(69) The social conditionality mechanism should be based on the enforcement procedures that are carried out by the competent enforcement authorities or bodies responsible for controls on working and employment conditions and applicable labour standards. Such enforcement procedures may take various forms depending on the national system. The outcome of the controls and the enforcement procedure should be communicated to the paying agencies along with a ranked assessment of the gravity of the breach of the relevant legislation.

(70) When applying the social conditionality mechanism in the CAP Strategic Plans and in the respective agreements between the paying agencies and the authorities or bodies responsible for the enforcement of social and employment legislation and applicable labour standards, great care should be taken to respect the autonomy of those enforcement authorities or bodies and the specific manner in which social and employment legislation and applicable labour standards are implemented and enforced in each Member State. That mechanism should remain independent from, and should not affect, the functioning of the particular social model of each Member State, nor should it in any way affect the independence of the judiciary. To that end, a clear separation of responsibilities should be ensured between the authorities or bodies responsible for the enforcement of social and employment legislation and applicable labour standards on the one hand and the agricultural paying agencies on the other, the role of the latter being execution of payments and application of penalties. The autonomy of social partners, as well as their right to negotiate and conclude collective agreements, should be fully respected. Their autonomy should also be respected where social partners are responsible for carrying out controls on working conditions.

(*71*) To ensure harmonious cooperation between the Commission and the Member States regarding the financing of CAP expenditure, and in particular to allow the Commission to monitor the financial management by the Member States and to clear the accounts of the accredited paying agencies, it is necessary for the Member States to retain specific information and to communicate it to the Commission.

(*72*) For the purposes of compiling the data to be sent to the Commission, and to enable the Commission to have full immediate access to expenditure data in both paper and electronic form, suitable rules on the presentation and transmission of data, including rules on time limits, need to be laid down.

(*73*) As personal data or sensitive business information might be affected by the application of the national control systems and the conformity clearance, Member States and the Commission should ensure the confidentiality of the information received in that context.

(*74*) In the interests of sound financial management of the Union budget and impartiality of treatment at both Member State and beneficiary level, rules on the use of the euro should be laid down.

(*75*) The rate of exchange of the euro into national currencies may vary in the course of the period during which an operation is carried out. Therefore, the rate applicable to the amounts concerned should be determined taking into account the event through which the economic objective of the operation is achieved. The rate of exchange applied should be that applicable for the date on which that event occurs. It is necessary to specify that operative event or the waiver of its application, whilst complying with certain criteria and in particular those concerning the rapidity with which currency movements are passed on. Special rules should be laid down for dealing with exceptional monetary situations arising either within the Union or on the world market and requiring immediate action to ensure that the arrangements established under the CAP operate effectively.

(*76*) Member States that have not adopted the euro should have the option of making payments for expenditure resulting from the CAP legislation in euros rather than in national currency. Specific rules are needed to ensure that this option does not lead to any unjustified advantage for parties making or receiving payment.

(*77*) Union law concerning the protection of individuals with regard to the processing of personal data and on the free movement of such data, in particular Regulations (EU) 2016/679[25] and (EU) 2018/1725[26] of the European Parliament and of the Council, should be applicable to the collection of personal data by the Member States and the Commission for the purposes of carrying out their respective management, control, audit and monitoring and evaluation obligations under this Regulation.

(***78***) The publication of the name of the beneficiaries of the EAGF and EAFRD provides a means of reinforcing the public control of the use of those funds and is necessary to ensure an adequate level of protection of the Union's financial interest. That is achieved partly by the preventive and deterrent effect of such publication, partly by discouraging individual beneficiaries from irregular behaviour and also partly by reinforcing the personal accountability of the farmers for use of public funds received. The publication of the relevant information is consistent with recent case-law of the Court of Justice and also with the approach set out in ***the Financial*** Regulation ▌ .

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25 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).

26 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).

(*79*) In that context, the role played by civil society, including by the media and non-governmental organisations, and their contribution to reinforcing the administrations' control framework against fraud and any misuse of public funds, should be properly recognised.

(*80*) Regulation (EU) ***2021/1060 of the European Parliament and of the Council***[27] lays down rules providing for transparency in implementing the European structural and investment funds and in the communication of programmes under those funds. To ensure coherence, it should be provided that those rules apply also to beneficiaries of EAGF and EAFRD interventions, where relevant.

(*81*) If the objective of the public control of the use of the money from the EAGF and EAFRD is to be achieved, a certain level of information about beneficiaries needs to be brought to the attention of the public. That information should include data on the identity of the beneficiary, the amount awarded, the fund from which it comes, and the purpose and the specific objective of the operation concerned. That information should be published in such a way as to cause the least interference with the beneficiaries' right to respect for private life and their right to protection of their personal data. Both those rights are recognised in Articles 7 and 8 of the Charter of Fundamental Rights of the European Union.

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[27] ***Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).***

(82) ***Taking into consideration the need for greater transparency regarding distribution of funds for the CAP from the EAGF and EAFRD, including as regards ownership structures linked to CAP beneficiaries, the list of beneficiaries of CAP funds, published ex-post by Member State, should also allow for the identification of groups of undertakings. This would significantly contribute to the monitoring of ownership structures and facilitate the investigation of potential misuse of Union funds, conflicts of interest and corruption.***

(***83***) Publishing details about the operation entitling the farmer to receive aid and about the purpose and the specific objective of the aid provides the public with concrete information on the subsidised activity and the purpose for which the aid was granted. Providing such oversight to the public would have a preventive and deterrent effect and would help to protect the financial interest of the Union.

(***84***) Publishing such information together with the general information provided for in this Regulation enhances transparency regarding the use of Union funds in the CAP, thus contributing to the visibility and better understanding of that policy. It enables citizens to participate more closely in the decision-making process and ensures that the administration enjoys greater legitimacy and is more effective and more accountable to the citizen. It also brings concrete examples of the provision of public goods by farming to the attention of citizens, thereby underpinning the legitimacy of national and Union support for the agricultural sector.

(***85***) It follows, therefore, that providing for the general publication of the relevant information does not go beyond what is necessary in a democratic society in view of the need to protect the Union's financial interests as well as the overriding objective of the public oversight of the use of the money from the EAGF and EAFRD.

(***86***) In order to comply with data protection requirements, beneficiaries of the EAGF and EAFRD should be informed of the publication of their data before that publication takes place. They should also be informed that that data may be processed by auditing and investigating bodies of the Union and Member States for the purposes of safeguarding the Union's financial interests. Furthermore, the beneficiaries should be informed about their rights under Regulation (EU) 2016/679 and the procedures applicable for exercising those rights.

(***87***) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 ***TFEU*** should be delegated to the Commission**.** It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[28]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

[28] ***OJ L 123, 12.5.2016, p. 1.***

(***88***) ***With a view to ensuring the sound operation of the paying agencies and coordinating bodies, the funding by the EAGF of the public intervention expenditure and the proper management of the appropriations entered in the Union budget for the EAGF, that*** delegation of power should concern the minimum conditions for the accreditation of the paying agencies and the designation and accreditation of coordinating bodies, the obligations of the paying agencies as regards public intervention, the rules on the content of the management and control responsibilities of the paying agencies***. Furthermore, in order to ensure the coherent application of the financial discipline in the Member States, that*** delegation of power ***should also cover*** the rules for the calculation of financial discipline to be applied by Member States to farmers. In order to ensure the proper management of the public intervention expenditure, ***that*** delegation of power ***should also cover*** the types of measure to be financed by the Union budget under public intervention and the reimbursement conditions, the eligibility conditions and calculation methods based on the information actually observed by the paying agencies, on flat-rates determined by the Commission, or on flat-rate or non-flat-rate amounts provided for by the agricultural legislation in specific sectors, the valuation of the operations in connection with public intervention, the measures to be taken in the case of loss or deterioration of products under the public intervention, and the determination of the amounts to be financed.

(89) ***In order to enable the Commission to make expenditure effected before the earliest possible date of payment or after the latest possible date of payment eligible for Union financing, while limiting the financial impact of doing so, that*** delegation of power should also cover derogations from the ineligibility of payments made by the paying agencies to the beneficiaries before the earliest or after the latest possible date of payment. In addition, in order to have clear rules and conditions for the Member States, that delegation of power should cover the rate of suspension of payments in relation to the annual clearances, as well as the rate and duration of suspension of payments and the condition for reimbursing or reducing those amounts with regard to the multi-annual performance monitoring. That delegation of power should also cover the interventions or measures for which the Member States may pay advances***, with the aim of ensuring continuity with the rules set out in Regulation (EU) No 1306/2013 and the relevant implementing and delegated acts, while respecting the financial limits of Article 11(2), point (b), of the Financial Regulation. To take account of revenue collected by paying agencies for the Union budget when making payments on the basis of the expenditure declarations submitted by Member States, that*** delegation of power ***should also cover*** the conditions under which certain types of expenditure and revenue under the EAGF and EAFRD are to be compensated. Moreover, ***and with a view to enabling the equitable distribution of the appropriations available between the Member States,*** that delegation of power should cover the methods applicable to the commitments and the payment of the amounts if the Union budget has not been adopted by the beginning of the budgetary year or if the total amount of the commitments scheduled exceeds the threshold laid down in Article 11(2) of the Financial Regulation.

(90) Furthermore, that delegation of power should, ***in order to ensure the correct and efficient application of the provisions relating to on-the-spot checks and access to documents and information,*** cover the specific obligations to be complied with by Member States with regard to checks and access to documents and information, the criteria for justifications from the Member States and the methodology and criteria for applying reductions in relation to the annual performance clearance, as well as the criteria and methodology for applying financial corrections in the context of the conformity clearance procedure.

(91) Moreover, ***in order to ensure that the checks are carried out correctly and efficiently and that the eligibility conditions are verified in an efficient, coherent and non-discriminatory manner which protects the financial interest of the Union***, that delegation of power should cover, where the proper management of the system so requires, rules on additional requirements with respect to customs procedures, and in particular to those laid down in Regulation (EU) No 952/2013 of the European Parliament and of the Council[29]. In order to ensure non-discriminatory treatment, equity and the respect of proportionality when lodging a security, that delegation of power should cover rules on securities specifying the responsible party in the event that an obligation is not met, laying down the specific situations in which the competent authority may waive the requirement of a security, the conditions applicable to the security to be lodged and the guarantor, the conditions for lodging and releasing that security, the specific conditions related to the security lodged in connection with advance payments, and setting out the consequences of breaching the obligations for which a security has been lodged.

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[29] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

(92) In addition, regarding the integrated system, that delegation of power should cover rules on the quality assessment of the identification system for agricultural parcels, of the geo-spatial application system and of the area monitoring system and rules on the identification system for agricultural parcels, the system for the identification of beneficiaries and the system for the identification and registration of payment entitlements.

(93) ***Furthermore, in order to respond to changes in agricultural legislation concerning specific sectors and to ensure the efficiency of the system of ex-post controls***, that delegation of power should cover the establishment of a list of interventions excluded from the scrutiny of transactions. ***In order to ensure a level playing field for Member States and the effectiveness, proportionality and dissuasive effect of the penalty systems under conditionality and social conditionality, that delegation of power should cover detailed rules on the application and calculation of such penalties.***

(94) ***Moreover, in order to specify the operative event or to fix it for reasons peculiar to the market organisation or the amount in question and to avoid the application by the Member States which have not adopted the euro of different exchange rates in accounts of revenue received or aid paid to beneficiaries in a currency other than the euro, on the one hand, and in the establishment of the declaration of expenditure drawn up by the paying agency, on the other, that*** delegation of power ***should cover rules*** on the operative event and the exchange rate to be used by the Member States not using the euro, and on the exchange rate applicable when declarations of expenditure are drawn up by the paying agency and when public storage operations are recorded in the accounts of the paying agency. In order to prevent exceptional monetary practices concerning a national currency from jeopardising the application of Union law, that delegation of power should cover derogations from the rules on the use of the euro laid down in this Regulation.

(***95)*** In order to enable a smooth transition between the rules laid down by Regulation (EU) No 1306/2013 and those laid down by this Regulation, that delegation of power should cover laying down transitional provisions**.**

(96) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[30].

(97) The implementing powers of the Commission should relate to the rules on the procedures for issuing, withdrawing and reviewing accreditation of paying agencies and the designation and accreditation of coordinating bodies, as well as for the supervision of the accreditation of paying agencies; on the arrangements and procedures for the checks underlying the management declaration of the paying agencies, as well as its structure and format; on the functioning of the coordinating body and the notification of information to the Commission by that coordinating body; on the functioning of the certification bodies, including the checks to be carried out and the bodies subject to those checks, and on the certificates and the reports, together with the documents accompanying them, to be drawn up by those bodies.

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30 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).

(***98***) The implementing powers of the Commission should also cover the audit principles on which the opinions of the certification bodies are based, including an assessment of the risks, internal controls and the level of audit evidence required, the audit methods to be used by the certification bodies, having regard to international standards on auditing, to deliver their opinions.

(***99***) The implementing powers of the Commission should also cover, in the context of the financial discipline procedure, the fixing of the adjustment rate for interventions in the form of direct payments and its adaptation as well as the amounts of non-committed appropriations carried over in accordance with Article 12(2)***, point*** (d)***,*** of ***the*** Financial Regulation in order to finance those interventions; and in the context of the budgetary discipline procedure, the provisional setting of the amount of the payments and the provisional distribution of the available budget among the Member States and the setting of the total amount of Union financing broken down by Member State.

(***100***) The implementing powers of the Commission should also cover the fixing of the amounts for the financing of public intervention measures, rules relating to the financing of the acquisition by the Commission of the satellite data required for the area monitoring system and the actions taken by the Commission through remote-sensing applications used for the monitoring of agricultural resources, the procedure for the carrying out of the acquisition by the Commission of those satellite data and the monitoring of agricultural resources, the framework governing the acquisition, enhancing and use of satellite data and meteorological data, and the applicable deadlines.

(***101***) Furthermore, the implementing powers of the Commission should cover the laying down of the periods within which the accredited paying agencies are to establish and send to the Commission interim declarations of expenditure relating to interventions for rural development as well as rules on the procedure and other practical arrangements for the proper functioning of the payment deadlines mechanism; the suspension, as well as the lifting of suspension, and reduction of the monthly or interim payments to Member States as well as rules on the structure of the actions plans and the procedure for setting them up. The implementing powers should also cover further rules on the keeping of separate accounts by the paying agencies and specific conditions applicable to the information to be booked in the accounts kept by the paying agencies; rules which are necessary and justifiable in an emergency in order to resolve specific problems in relation to payment periods and the payment of advances; rules on the financing and accounting of intervention measures in the form of public storage, and other expenditure financed by the EAGF and EAFRD, and the terms and conditions governing the implementation of the automatic decommitment procedure.

(***102***) Moreover, the implementing powers of the Commission should cover the conditions under which the documents and information relating to payments made are to be kept; the procedures relating to the cooperation obligations to be complied with by the Member States as regards the checks carried out by the Commission and access to information; the annual financial clearance, including the rules on the actions necessary for the purposes of adoption and implementation of those implementing acts, the annual performance clearance, including the rules on the actions necessary for the purposes of adoption and implementation of those implementing acts, and the information exchange between the Commission and the Member States, the procedures and the deadlines to be respected; the conformity procedure, including the rules on the actions necessary for the purposes of adoption and implementation of those implementing acts, the information exchange between the Commission and the Member States, the deadlines to be respected and the conciliation procedure; rules on the possible offsetting of the amounts resulting from recovery of undue payments and the exclusion from Union financing of amounts charged to the Union budget and the forms of notification and communication to be made by the Member States to the Commission in relation to recoveries for non-compliance.

(***103***) The implementing powers of the Commission should also cover rules aimed at reaching a uniform application of Member States' obligations regarding the protection of the financial interests of the Union and rules necessary for the uniform application of checks in the Union.

(***104***) Furthermore, the implementing powers of the Commission should cover the form of the securities to be lodged and the procedure for lodging the securities, for accepting them, and for replacing the original securities; the procedures for the release of securities; and the notification to be made by Member States or by the Commission in the context of securities.

(***105***) The implementing powers of the Commission should also cover rules on the form, content and arrangements for transmitting or making available to the Commission the assessment reports on the quality of the identification system for agricultural parcels, of the geo-spatial application system and of the area monitoring system, and on the remedial actions to be implemented by the Member States with regard to deficiencies revealed in those systems***,*** as well as basic features of, and rules on, the ***aid*** application system and the area monitoring system***, including its phasing-in***.

(***106***) The implementing powers of the Commission should also cover rules necessary for the uniform application of the rules on the scrutiny of commercial documents. They should also cover rules pertaining to communication of information by Member States to the Commission and measures to safeguard the application of Union law if exceptional monetary practices related to national currency are likely to jeopardise it.

(***107***) Furthermore, the implementing powers of the Commission should cover rules on the form and the timescale of the publication of the beneficiaries of the EAGF and EAFRD, the uniform application of the obligation to inform the beneficiaries that data concerning them will be made public and the cooperation between the Commission and Member States in the context of the publication of the beneficiaries of the EAGF and EAFRD.

(***108***) The advisory procedure should be used for the adoption of certain implementing acts. With regard to implementing acts involving the calculation of amounts by the Commission, the advisory procedure enables the Commission to fully assume its responsibility of managing the budget and aims to increase efficiency, predictability and rapidity, when complying with the time limits and the budgetary procedures. With regard to implementing acts related to payments made to the Member States and the operation of the clearance of accounts procedure and annual performance clearance, the advisory procedure enables the Commission to fully assume its responsibility of managing the budget and verifying the annual accounts of the national paying agencies with a view to accepting such accounts or, in the case of expenditure not effected in compliance with Union rules, to excluding such expenditure from Union financing. The examination procedure should be used for the adoption of the other implementing acts.

(***109***) In order to ensure uniform conditions for the implementation of this Regulation, the implementing powers should be conferred on the Commission without applying Regulation (EU) No 182/2011 concerning the setting of the net balance available for EAGF expenditure, the determination of monthly payments it should make on the basis of the declaration of expenditure from the Member States and the determination of supplementary payments or deductions in the context of the procedure for monthly payments.

(***110***) Regulation (EU) No 1306/2013 should therefore be repealed.

(***111***) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States given the links between this Regulation and the other instruments of the CAP and the limits on the financial resources of the Member States, but can rather, by reason of the multiannual guarantee of Union finance and by concentrating on the Union's priorities, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 ***TEU***. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(112) In order to ensure the smooth implementation of the measures envisaged and as a matter of urgency, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union***,**

HAVE ADOPTED THIS REGULATION:

TITLE I

SCOPE AND DEFINITIONS

Article 1

Scope

This Regulation lays down rules on ***the financing, management and monitoring of the common agricultural policy*** (CAP), and in particular on:

(a) the financing of expenditure under the CAP ▌;

(b) the management and control systems to be put in place by the Member States;

(c) clearance and conformity procedures.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

(a) "irregularity" means an irregularity within the meaning of Article 1(2) of Regulation (EC, Euratom) No 2988/95;

(b) "governance systems" means the governance bodies referred to in ***Title II,*** Chapter II***,*** of this Regulation and the basic Union requirements, including ***Member States' obligations with regard to the effective protection of the financial interests of the Union referred to in Article 59 of this Regulation as well as the implementation, in accordance with Article 9 of Regulation (EU) 2021/…[+], of their CAP Strategic Plans as approved by the Commission, and*** the reporting system put in place for the purposes of the annual performance report referred to in Article ***134*** of that Regulation;

(c) "basic Union requirements" means the requirements laid down in Regulation (EU) 2021/…[+], in ***this Regulation, in the Financial Regulation and in Directive 2014/24/EU of the European Parliament and of the Council[31];***

(d) "serious deficiencies in the proper functioning of the governance systems" means the existence of a systemic weakness, taking into account its recurrence, gravity and compromising effect on the correct declaration of expenditure, the reporting on performance, or the respect of Union law;

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

[31] ***Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).***

(e) ***"output indicator" means an output indicator as referred to in Article 7(1), point (a), of Regulation (EU) 2021/…[+];***

(f) ***"result indicator" means a result indicator as referred to in Article 7(1), point (b), of Regulation (EU) 2021/…[+];***

(g) ***"action plan" means, for the purposes of Articles 41 and 42 of this Regulation, a plan established by a Member State, on the request of, and in consultation with, the Commission, in the event that serious deficiencies in the proper functioning of the governance systems of that Member State are identified or in the circumstances referred to in Article 135 of Regulation (EU) 2021/...[+], containing the necessary remedial actions and the relevant timeframe for its implementation in accordance with Articles 41 and 42 of this Regulation***.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

Article 3

Exemptions in cases of force majeure and exceptional circumstances

1. For the purposes of the financing, management and monitoring of the CAP, force majeure and exceptional circumstances may, in particular, be recognised in the following cases:

(a) a severe natural disaster ***or severe meteorological event*** gravely affecting the holding;

(b) the accidental destruction of livestock buildings on the holding;

(c) an epizootic**,** a plant disease ***outbreak or the presence of a plant pest*** affecting part or all of the beneficiary's livestock or crops;

(d) expropriation of all or a large part of the holding if that expropriation could not have been anticipated on the day of lodging the application***;***

(e) the death of the beneficiary;

(f) long-term professional incapacity of the beneficiary.

2. Where a severe natural disaster or severe meteorological event as referred to in paragraph 1, point (a), gravely affects a well-determined area, the Member State concerned may consider that whole area to be gravely affected by that disaster or event.

TITLE II

GENERAL PROVISIONS ON AGRICULTURAL FUNDS

CHAPTER I

Agricultural funds

Article 4

Funds financing agricultural expenditure

The financing of the various interventions and measures falling under the CAP from the general budget of the Union ('the Union budget') shall be made by:

(a) the European Agricultural Guarantee Fund (EAGF);

(b) the European Agricultural Fund for Rural Development (EAFRD).

Article 5

EAGF expenditure

1. The EAGF shall be implemented either under shared management between the Member States and the Union in accordance with paragraph 2, or under direct management in accordance with paragraph 3.

2. The EAGF shall finance the following expenditure under shared management:

(a) measures regulating or supporting agricultural markets laid down in Regulation (EU) No 1308/2013 ***of the European Parliament and of the Council***[32];

[32] Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

(b) ***the Union's financial contribution to*** interventions in certain sectors as referred to in ▌ Title III***, Chapter III,*** of Regulation (EU) 2021/…[+];

(c) interventions in the form of direct payments to farmers under the CAP Strategic Plan referred to under Article ***16*** of Regulation (EU) 2021/…[+];

(d) the Union's financial contribution to information and promotion measures for agricultural products on the internal market of the Union and in third countries which are undertaken by Member States and which are selected by the Commission;

(e) the Union's financial contribution to the specific measures for agriculture in the outermost regions of the Union laid down in Regulation (EU) No 228/2013 and to the specific measures for agriculture in favour of the smaller Aegean islands laid down in Regulation (EU) No 229/2013.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

3. The EAGF shall finance the following expenditure under direct management:

(a) the promotion of agricultural products either directly by the Commission or through international organisations;

(b) measures taken in accordance with Union law to ensure the conservation, characterisation, collection and utilisation of genetic resources in agriculture;

(c) the establishment and maintenance of agricultural accounting information systems;

(d) agricultural survey systems, including surveys on the structure of agricultural holdings.

Article 6

EAFRD expenditure

The EAFRD shall be implemented under shared management between the Member States and the Union. It shall finance the Union's financial contribution to the interventions for rural development referred to in ▌ Title III***, Chapter IV,*** of Regulation (EU) 2021/…[+] ***as specified in the CAP Strategic Plans and to actions referred to in Article 125 of that Regulation***.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

Article *7*

Other expenditure, including technical assistance

The EAGF and EAFRD may, either on the initiative of the Commission or on its behalf, each directly finance the preparatory, monitoring, administrative and technical support activities, and the evaluation, audit and inspection, required to implement the CAP. That includes, in particular:

(a) measures required for the analysis, management, monitoring, information exchange and implementation of the CAP, ***including assessing its impacts, environmental performance and progress towards Union targets,*** as well as measures relating to the implementation of control systems and technical and administrative assistance;

(b) the acquisition by the Commission of satellite data required for the area monitoring system in accordance with Article ***24***;

(c) the actions taken by the Commission through remote-sensing applications used for the monitoring of agricultural resources in accordance with Article ***25***;

(d) measures required to maintain and develop methods and technical means for information, interconnection, monitoring and control of the financial management of the funds used to finance the CAP;

(e) the provision of information on the CAP in accordance with Article ***46***;

(f) studies on the CAP and evaluations of measures financed by the EAGF and EAFRD, including ***the*** improvement of evaluation methods and ***the*** exchange of information on ***best*** practices under the CAP ***and consultations with the relevant stakeholders***, as well as studies carried out with the European Investment Bank (EIB);

(g) where relevant, contribution to executive agencies that are set up in accordance with Council Regulation (EC) No 58/2003[33] and act in connection with the CAP;

(h) contribution to measures which relate to the dissemination of information, raising awareness, promoting cooperation and exchanging experiences ***with the relevant stakeholders*** at Union level, and which are taken in the context of interventions for rural development, including the networking of the parties concerned;

(i) information technology networks focusing on information processing and exchange, including corporate information technology systems, needed in connection with the management of the CAP;

[33] Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes (OJ L 11, 16.1.2003, p. 1).

(j) measures required for the development, registration and protection of logos within the framework of the Union quality schemes in accordance with Article 44(2) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council[34] and for the protection of intellectual property rights linked to it, and the necessary developments in information technology.

CHAPTER II

Governance bodies

Article 8

Competent authority

1. Each Member State shall designate a competent authority at ministerial level responsible for:

(a) the issuing, reviewing and withdrawing of accreditation of paying agencies referred to in Article 9(2);

(b) the designation and the issuing, reviewing and withdrawing of the accreditation of the coordinating body referred to in Article 10;

(c) designating and withdrawing the designation of a certification body as referred to in Article 12, and ensuring that there is always a certification body designated;

(d) carrying out the tasks assigned to the competent authority under this Chapter.

[34] Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

2. On the basis of an examination of the minimum conditions to be adopted by the Commission in accordance with Article 11(1), point (a), the competent authority shall, by way of a formal act, decide on the issuing or, following a review, the withdrawal of the accreditation of the paying agency and on the designation and accreditation and the withdrawal of the accreditation of the coordinating body.

3. The competent authority shall, by way of a formal act, decide on the designation, and the withdrawal of the designation, of the certification body, while ensuring that there is always a certification body designated.

4. The competent authority shall inform the Commission without delay of all accreditations and withdrawals of accreditation of the paying agency and of the designation and accreditation and withdrawal of accreditation of the coordinating body, as well as of the designation, and the withdrawal of the designation, of the certification body.

Article 9

Paying agencies

1. Paying agencies shall be departments or bodies of the Member States ***and, where applicable, of their regions*** responsible for the management and control of expenditure referred to in Article 5(2) and Article 6.

   With the exception of making payment, paying agencies may delegate performance of the tasks referred to in the first subparagraph.

2. Member States shall accredit, as paying agencies, departments or bodies which have an administrative organisation and a system of internal control which provide sufficient guarantees that payments are legal, regular and properly accounted for. To that end, paying agencies shall comply with minimum conditions for the accreditation with regard to the internal environment, control activities, information and communication and monitoring laid down by the Commission pursuant to ▌ Article ***11***(1)***, point (a)***.

   Each Member State shall***, taking into account its constitutional provisions,*** restrict the number of its accredited paying agencies:

   (a) to a single paying agency at national level or, where applicable, one per region; and

   (b) to a single paying agency for the management of both EAGF and EAFRD expenditure ***where paying agencies exist only at national level.***

Where paying agencies are established at regional level, Member States shall, in addition, either accredit a paying agency at national level for aid schemes which, by their nature, have to be managed at national level, or confer the management of those schemes on their regional paying agencies.

By way of derogation from the second subparagraph of this paragraph, Member States may maintain the paying agencies which have been accredited before 15 October 2020, provided that the competent authority, by means of the decision referred to in Article 8(2), confirms that they comply with the minimum conditions for accreditation referred to in the first subparagraph of this paragraph.

Paying agencies which have not managed EAGF or EAFRD expenditure for at least three years shall have their accreditation withdrawn.

Member States shall not accredit any new additional paying agency after ... [the date of entry into force of this Regulation]***, except for cases referred to in the second subparagraph, point (a), where, taking into account the constitutional provisions, additional regional paying agencies may be necessary***.

3. For the purposes of Article 63(5) and (6) of ▌ the ▌ Financial Regulation ▌ , the person in charge of the accredited paying agency shall, by 15 February of the year following the agricultural financial year ('financial year') concerned, draw up and provide the Commission with the following:

(a) the annual accounts on the expenditure incurred in the execution of the tasks entrusted to that accredited paying agency, as provided for in ***Article 63(5),*** point (a) ▌ **,** of the Financial Regulation, accompanied by the requisite information for the clearance in accordance with Article ***53 of this Regulation***;

(b) the annual performance report referred to in Article ***54(1) of this Regulation and Article 134 of Regulation (EU) 2021/…***[+] showing that the expenditure was effected in accordance with Article ***37 of this Regulation***;

(c) ***an annual summary of the final audit reports and of controls carried out, an analysis of the nature and extent of errors and weaknesses identified in governance systems, as well as corrective action taken or planned, as provided for in Article 63(5), point (b), of the Financial Regulation;***

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(d) a management declaration as provided for in Article 63(6) of the Financial Regulation as to:

(i) the fact that the information is properly presented, complete and accurate, as provided for in ▌ Article 63(6)***, point (a),*** of the Financial Regulation,

(ii) the proper functioning of the governance systems put in place, ***with the exception of the competent authority referred to in Article 8, the coordinating body referred to in Article 10 and the certification body referred to in Article 12 of this Regulation, ensuring that the expenditure was effected in accordance with Article 37 of this Regulation, as provided for in Article 63(6),*** points (b) and (c) ▌***,*** of the Financial Regulation***.***

▌

The deadline of 15 February referred to in the first subparagraph of this paragraph may be extended on an exceptional basis by the Commission to 1 March, upon communication by the Member State concerned, as provided for in ***Article 63(7),*** second subparagraph***,*** of the Financial Regulation.

4. ▌Where an accredited paying agency does not meet or no longer meets one or more of the minimum conditions for accreditation referred to in paragraph 2, first subparagraph, the Member State concerned, acting on its own initiative or at the request of the Commission, shall withdraw the accreditation of that paying agency unless the paying agency makes the necessary changes within a period to be determined by the competent authority of that Member State depending on the severity of the problem.

5. The paying agencies shall manage, and ensure the control of, the operations linked to public intervention for which they are responsible and they shall retain overall responsibility in that field.

Where support is provided through a financial instrument which is implemented by the EIB or another international financial institution in which a Member State is a shareholder, the paying agency shall rely on ***a*** control report supporting the payment applications submitted▌. ***Those institutions shall provide the Member States with the control report.***

6. ***For the purposes of Article 33, for EAFRD expenditure, an additional performance report shall be provided, by 30 June 2030, in accordance with paragraph 3 of this Article and with Article 10(3), covering the period until 31 December 2029.***

▌

Article ***10***

Coordinating bodies

1. Where more than one paying agency is accredited in a Member State, that Member State shall designate a public coordinating body, to which it shall assign the following tasks:

(a) to collect the information to be provided to the Commission and to send that information to the Commission;

(b) to supply to the Commission the annual performance report referred to in Article 54(1) of this Regulation and Article 134 of Regulation (EU) 2021/…[+];

(c) to take or coordinate actions with a view to resolving any deficiencies of a common nature and to inform the Commission of any follow-up;

(d) to promote and, where possible, ensure the harmonised application of Union rules.

2. As regards the processing of the information of a financial nature referred to in paragraph 1, point (a), the coordinating body shall be subject to specific accreditation by the Member State.

3. The annual performance report referred to in paragraph 1, point (b), of this Article shall be covered by the scope of the opinion referred to in Article 12(2) and it shall be submitted to the Commission together with a management declaration covering the compilation of the entire report.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

Article ***11***

Commission powers relating to paying agencies and coordinating bodies

1. The Commission is empowered to adopt delegated acts in accordance with Article ***102 to ensure the sound operation of the paying agencies and coordinating bodies provided for in Articles 9 and 10,*** supplementing this Regulation with rules on:

   (a) the minimum conditions for the accreditation of the paying agencies referred to in Article ***9***(2), first subparagraph, and for the designation and accreditation of the coordinating bodies referred to in Article ***10***;

   (b) the obligations of the paying agencies as regards public intervention***, as well as*** the rules ***on*** the content of their management and control responsibilities.

2. The Commission shall adopt implementing acts laying down rules on:

   (a) the procedures for issuing, withdrawing and reviewing accreditation of paying agencies and for designation and issuing, withdrawing and reviewing accreditation of coordinating bodies, as well as the procedures for the supervision of the accreditation of paying agencies;

(b) the ***arrangements and procedures for the*** checks underlying the management declaration of the paying agencies referred to in ***Article 9(3), first subparagraph, point (d), as well as its structure and format***;

(c) the functioning of the coordinating body and the submission of information to the Commission in accordance with Article ***10.***

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

Article 12

Certification bodies

1. The certification body shall be a public or private audit body designated by the Member State for a period of at least three years, without prejudice to national law. Where it is a private audit body and where the applicable Union or national law so requires, it shall be selected by the Member State by means of a public tendering procedure.

A Member State that designates more than one certification body may appoint a public certification body at national level to be responsible for coordination.

2. For the purposes of ***Article 63(7),*** first subparagraph***,*** of the Financial Regulation, the certification body shall issue an opinion, drawn up in accordance with internationally accepted audit standards, which shall establish whether:

(a) the accounts give a true and fair view;

(b) the Member States' governance systems put in place function properly***, in particular:***

(i) the governance bodies referred to in Articles 9 and 10 of this Regulation and Article 123 of Regulation (EU) 2021/…[+],

(ii) the basic Union requirements,

(iii) the reporting system put in place for the purposes of the annual performance report referred to in Article 134 of Regulation (EU) 2021/…[+];

(c) the performance reporting on output indicators for the purposes of the annual performance clearance referred to in Article ***54*** of this Regulation and the performance reporting on result indicators for the multiannual performance monitoring referred to in Article ***128*** of Regulation (EU) 2021/…[+], demonstrating that Article ***37*** of this Regulation is complied with, is correct;

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(d) the expenditure for the measures laid down in Regulations ***(EU) No 228/2013, (EU) No 229/2013 and*** (EU) No 1308/2013 ***and in Regulation (EU) No 1144/2014 of the European Parliament and of the Council***[35] for which reimbursement has been requested from the Commission is legal and regular.

That opinion shall also state whether the examination calls into question the assertions made in the management declaration referred to in ***Article 9(3), first subparagraph, point (d). The examination shall also cover the analysis of the nature and extent of errors and weaknesses identified in governance systems by audit and controls, as well as corrective action taken or planned by the paying agency, referred to in Article 9(3), first subparagraph, point (c***).

Where support is provided through a financial instrument which is implemented by the EIB or another international financial institution in which a Member State is a shareholder, the certification body shall rely on the annual audit report drawn up by the external auditors of those institutions. ***Those institutions shall provide the Member States with the annual audit report.***

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[35] ***Regulation (EU) No 1144/2014 of the European Parliament and of the Council of 22 October 2014 on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries and repealing Council Regulation (EC) No 3/2008 (OJ L 317, 4.11.2014, p. 56).***

3. The certification body shall have the necessary technical expertise***, as well as knowledge of the CAP***. It shall be operationally independent from the paying agency and the coordinating body concerned as well as from the competent authority which has accredited that paying agency and the bodies responsible for the implementation and the monitoring of the CAP.

4. The Commission shall adopt implementing acts laying down rules on the ***functioning*** of the certification bodies, including the checks to be carried out and the bodies subject to those checks, and on the certificates and the reports, together with the documents accompanying them, to be drawn up by those bodies.

The implementing acts shall also set out:

(a) the audit principles on which the opinions of the certification bodies are based, including an assessment of the risks, internal controls and the level of audit evidence required;

(b) the audit methods to be used by the certification bodies, having regard to international standards on auditing, to deliver their opinions.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

Article 13

Exchange of best practices

The Commission shall promote the exchange of best practices between the Member States, in particular as regards the work of the governance bodies under this Chapter.

TITLE III

FINANCIAL MANAGEMENT OF THE EAGF AND EAFRD

CHAPTER I

EAGF

Section 1

Budgetary discipline

Article ***14***

Budget ceiling

1. The annual ceiling for EAGF expenditure shall be constituted by the maximum amounts set for it under Regulation (EU, Euratom) ***2020/2093***.

2. Where Union law provides for sums to be deducted from, or added to, the amounts referred to in paragraph 1, the Commission shall adopt implementing acts without applying the procedure referred to in Article ***103*** setting the net balance available for EAGF expenditure on the basis of the data referred to in Union law.

Article ***15***

Compliance with the ceiling

1. Where Union law provides for a financial ceiling in euros for agricultural expenditure in respect of a Member State, such expenditure shall be reimbursed subject to that ceiling, and, where Articles ***39*** to ***42*** apply, with any necessary adjustments.

2. Member States' allocations for interventions in the form of direct payments referred to in Article ***87*** of Regulation (EU) 2021/…[+], corrected by the adjustments laid down in Article ***17*** of this Regulation, are financial ceilings in euros for the purposes of paragraph 1 of this Article.

Article ***16***

Agricultural reserve

1. ***A Union agricultural reserve ('the reserve') shall be established at the beginning of each year in the EAGF*** to provide additional support for the agricultural sector for the purpose of market management or stabilisation ***and to respond promptly*** in the case of crises affecting the agricultural production or distribution ▌.

The appropriations for the ▌reserve shall be entered directly in the Union budget. Funds from the ▌reserve shall be made available***, in the financial year or years for which additional support is required, for the following*** measures***:***

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(a) ***measures to stabilise agricultural markets*** under Articles 8 to 21 ***of Regulation (EU) No 1308/2013;***

(b) ***exceptional measures under Articles*** 219, 220 and 221 of Regulation (EU) No 1308/2013 ▌.

2. The amount of the reserve shall be ▌EUR ***450*** million in current prices at the beginning of each year of the period ***2023-2027, unless a higher amount is set in the Union budget.*** The Commission may adjust the amount of the reserve during the year, when appropriate, in view of market developments or perspectives in the current or following year and taking into account available appropriations under the EAGF ***sub-ceiling***.

If those available appropriations are not sufficient, financial discipline may be used in accordance with Article 17 of this Regulation, as a last resort, to fund the reserve up to the initial amount referred to in the first subparagraph of this paragraph.

By way of derogation from ▌ Article 12(2)***, third subparagraph,*** of the Financial Regulation, non-committed appropriations of the ▌ reserve shall be carried over ▌ to finance the ▌ reserve in the following budgetary years ***until the year 2027.***

Moreover, by derogation from ▌ Article 12(2)***, third subparagraph,*** of the Financial Regulation, the total unused amount of the reserve for crises in the agricultural sector, established by Regulation (EU) No 1306/2013, available at the end of the year ***2022*** shall be carried over to the year ***2023*** without being ***fully*** returned to the budgetary lines which cover the actions referred to in ▌ Article 5(2)***, point (c), of this Regulation*** and made available ***to the extent necessary*** for the financing of the reserve established by this Article ***after taking into account appropriations available under the EAGF sub-ceiling. Any appropriations of the reserve for crises in the agricultural sector that remain available after financing the reserve established by this Article shall be returned to the budgetary lines which cover the actions referred to in Article 5(2), point (c), of this Regulation***.

Article ***17***

Financial discipline

1. An adjustment rate for interventions in the form of direct payments referred to in ▌ Article 5(2)***, point (c),*** of this Regulation and for the Union financial contribution to direct payments under Chapter IV of Regulation (EU) No 228/2013 and Chapter IV of Regulation (EU) No 229/2013 for the specific measures referred to in ▌ Article 5(2)***, point (e), of this Regulation*** ('the adjustment rate') shall be determined by the Commission where the forecasts for the financing of the interventions and measures financed under the corresponding sub-ceiling for a given budgetary year indicate that the applicable annual ceilings will be exceeded.

The adjustment rate shall apply to payments to be granted to farmers for the interventions and specific measures referred to in the first subparagraph of this paragraph exceeding EUR 2 000 for the corresponding calendar year. For the purposes of this subparagraph, Article 17(4) of Regulation (EU) 2021/…[+] shall apply mutatis mutandis.

The Commission shall, by 30 June of the calendar year in respect of which the adjustment rate applies, adopt implementing acts fixing the adjustment rate. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article ***103***(2).

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

2. Until 1 December of the calendar year in respect of which the adjustment rate applies, the Commission may, on the basis of new information, adopt implementing acts adapting the adjustment rate set in accordance with paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article ***103***(2).

3. Where financial discipline has been applied, the appropriations carried over in accordance with ▌ Article 12(2)***, point (d),*** of the Financial Regulation shall be used to finance expenditure under ▌ Article 5(2)***, point (c),*** of this Regulation, to the extent necessary to avoid the repeated application of financial discipline.

Where appropriations to be carried over in accordance with the first subparagraph remain available and the overall amount of non-committed appropriations available for reimbursement represents at least 0,2 % of the annual ceiling for EAGF expenditure, the Commission may adopt implementing acts setting out per Member State the amounts of non-committed appropriations to be reimbursed to final beneficiaries. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article ***103***(2).

4. The amounts set by the Commission in accordance with ***paragraph 3,*** second subparagraph ▌**,** shall be reimbursed to final beneficiaries by Member States in accordance with objective and non-discriminatory criteria. Member States may apply a minimum threshold of amounts of reimbursement per final beneficiary. That reimbursement shall apply only to final beneficiaries in those Member States where financial discipline applied in the preceding financial year.

5. The Commission is empowered to adopt delegated acts in accordance with Article ***102 which are necessary in order to ensure the coherent application of the financial discipline in the Member States,*** supplementing this Regulation with rules for calculating the financial discipline to be applied by Member States to farmers.

Article ***18***

Budgetary discipline procedure

1. Where, upon drawing up the draft budget for budgetary year N, there appears to be a risk that the amount referred to in Article ***14*** of this Regulation for budgetary year N will be exceeded, the Commission shall propose the measures necessary to ensure compliance with that amount. Those measures are to be adopted by the European Parliament and the Council where the legal basis of the relevant measure is Article 43(2) ***TFEU*** or by the Council where the legal basis of the relevant measure is Article 43(3) ***TFEU***.

2. If at any time the Commission considers that there is a risk that the amount referred to in Article ***14*** of this Regulation will be exceeded and that it cannot take adequate measures to remedy the situation, it shall propose other measures to ensure compliance with that amount. Those measures are to be adopted by the European Parliament and the Council where the legal basis of the relevant measure is Article 43(2) ***TFEU or*** by the Council where the legal basis of the relevant measure is Article 43(3) ***TFEU***.

3. Where, at the end of budgetary year N, reimbursement requests from the Member States exceed or are likely to exceed the amount referred to in Article ***14,*** the Commission shall:

   (a) consider the requests submitted by Member States pro rata subject to the budget available, and adopt implementing acts setting provisionally the amount of the payments for the month concerned;

(b) determine for all Member States, on or before 28 February of budgetary year N + 1, their situation with regard to Union financing for the budgetary year N;

(c) adopt implementing acts setting the total amount of Union financing broken down by Member State, on the basis of a single rate of Union financing, subject to the amount which was available for the monthly payments;

(d) effect, at the latest when the monthly payments are made for March of budgetary year N + 1, any compensation to be carried out with respect to Member States.

The implementing acts provided for in ▌ the first subparagraph***, points (a) and (c),*** of this paragraph shall be adopted in accordance with the advisory procedure referred to in Article ***103***(2).

Article ***19***

Early-warning and monitoring system

In order to ensure that the budget ceiling referred to in Article ***14*** is not exceeded, the Commission shall implement a monthly early-warning and monitoring system in respect of EAGF expenditure.

To that end, at the beginning of each budgetary year, the Commission shall determine monthly expenditure profiles based, where appropriate, on average monthly expenditure during the previous three years.

The Commission shall periodically submit a report to the European Parliament and to the Council in which the development of expenditure effected in relation to the profiles is examined and which contains an assessment of the forecasted implementation for the current budgetary year.

Section 2

Financing of expenditure

Article ***20***

Monthly payments

1. The appropriations necessary to finance the expenditure referred to in Article 5(2) shall be made available to Member States by the Commission in the form of monthly payments on the basis of the expenditure effected by the accredited paying agencies during a reference period.

2. Until the Commission transfers the monthly payments, the resources required to effect expenditure shall be mobilised by the Member States according to the needs of their accredited paying agencies.

Article ***21***

Procedure for monthly payments

1. Without prejudice to Articles ***53, 54*** and ***55,*** monthly payments shall be made by the Commission for expenditure effected by accredited paying agencies during the reference month.

2. Monthly payments shall be made to each Member State on or before the third working day of the second month following that in which the expenditure is effected, taking account of the reductions or suspensions applied under Articles ***39*** to ***42*** or any other corrections. Expenditure effected by Member States between 1 and 15 October shall count as having been made in the month of October. Expenditure effected between 16 and 31 October shall count as having been made in the month of November.

3. The Commission shall adopt implementing acts determining the monthly payments which it makes on the basis of a declaration of expenditure from the Member States and the information supplied in accordance with Article ***90***(1). Those implementing acts shall be adopted without applying the procedure referred to in Article ***103.***

4. The Commission may adopt implementing acts determining supplementary payments or deductions adjusting the payments made in accordance with paragraph 3. Those implementing acts shall be adopted without applying the procedure referred to in Article ***103.***

5. The Commission shall inform the Member State forthwith of any overrun of financial ceilings by the Member State.

Article ***22***

Administrative and personnel costs

Expenditure relating to administrative and personnel costs effected by Member States and by beneficiaries of aid from the EAGF shall not be borne by the EAGF.

Article ***23***

Public intervention expenditure

1. Where, within the framework of the common organisation of the markets, a sum per unit is not determined in respect of a public intervention, the EAGF shall finance the measure concerned on the basis of uniform standard amounts, in particular as regards funds originating in the Member States used for buying in products, for material operations arising from storage and, where appropriate, for the processing of the products eligible for public intervention referred to in Article 11 of Regulation (EU) No 1308/2013.

2. The Commission is empowered to adopt delegated acts in accordance with Article ***102*** supplementing this Regulation with rules on:

   (a) the type of measures eligible for Union financing and the reimbursement conditions;

   (b) the eligibility conditions and calculation methods based on the information actually observed by the paying agencies, on flat rates determined by the Commission, or on flat-rate or non-flat-rate amounts provided for by the agricultural legislation in specific sectors;

(c) the valuation of operations in connection with public intervention, the measures to be taken in the case of loss or deterioration of products under the public intervention, and the determination of the amounts to be financed.

3. The Commission shall adopt implementing acts fixing the amounts referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article ***103***(2).

Article ***24***

Acquisition of satellite data

The list of satellite data required for the area monitoring system referred to in ▌ Article ***66***(1)***, point (c),*** shall be agreed by the Commission and the Member States in accordance with the specification prepared by each Member State.

In accordance with ▌ Article 7, ***point (b),*** the Commission shall supply that satellite data free of charge to the authorities competent for the area monitoring system or to suppliers of services authorised by those authorities to represent them.

The Commission shall remain the owner of the satellite data ▌ .

The Commission may entrust specialised bodies to carry out tasks relating to techniques or working methods in connection with the area monitoring system referred to in ▌ Article ***66***(1)***, point (c)***.

Article ***25***

Monitoring of agricultural resources

1. The actions financed pursuant to ***Article 7,*** point (c) ▌**,** shall aim to give the Commission the means to:

(a) manage Union agricultural markets in a global context;

(b) ensure agri-economic and agri-environmental-climate monitoring of agricultural land use and agricultural land use change, including agro-forestry, and monitoring of the condition of ***soil,*** crops, ***agricultural landscapes and agricultural land*** so as to enable estimates to be made, in particular as regards yields and agricultural production and agricultural impacts associated with exceptional circumstances***, and to enable the assessment of the resilience of agricultural systems and progress towards the achievement of the relevant United Nations Sustainable Development Goals***;

(c) share the access to the estimates referred to in point (b) in an international context, such as the initiatives coordinated by United Nations organisations, including the constitution of greenhouse gas inventories under the United Nations Framework Convention on Climate Change, or other international agencies;

(d) contribute to ***specific measures increasing the*** transparency of world markets***, taking account of Union objectives and commitments***;

(e) ensure technological follow-up of the agri-meteorological system.

2. Pursuant to ***Article 7,*** point (c), ▌ the Commission shall finance the actions concerning:

(a) the collection or purchase of data needed to implement and monitor the CAP, including satellite data, geo-spatial data and meteorological data;

(b) the creation of a spatial data infrastructure and a website;

(c) the carrying out of specific studies on climatic conditions;

(d) remote sensing used to assist in the monitoring of agricultural land use change and soil health; and

(e) the updating of agri-meteorological and econometric models.

Where necessary, those actions shall be carried out in collaboration with the European Environment Agency, the Joint Research Centre, national laboratories and bodies or with the involvement of the private sector.

Article ***26***

Implementing powers relating to Articles 24 and 25

The Commission may adopt implementing acts laying down:

(a) rules relating to the financing pursuant to ***Article 7,*** points (b) and (c) ▌ ;

(b) the procedure under which the measures referred to in Articles ***24*** and ***25*** are to be carried out in order to meet the objectives assigned;

(c) the framework governing the acquisition, enhancing and use of satellite data and meteorological data, and the applicable deadlines.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

CHAPTER II
EAFRD

Section 1
General provisions concerning the EAFRD

Article ***27***
Provisions applying to all payments

1. Payments by the Commission of the EAFRD contribution referred to in Article 6 shall not exceed the budgetary commitments.

   Without prejudice to Article ***34***(1), those payments shall be assigned to the earliest open budgetary commitment.

2. Article 110 of the Financial Regulation shall apply.

Section 2

EAFRD financing under the CAP Strategic Plan

Article ***28***

Financial contribution from the EAFRD

The financial contribution from the EAFRD towards expenditure under CAP Strategic Plans shall be determined for each CAP Strategic Plan within the ceilings established by Union law concerning support for CAP Strategic Plan interventions by the EAFRD.

Article ***29***

Budgetary commitments

1. The Commission's implementing decision approving a CAP Strategic Plan shall constitute a financing decision within the meaning of Article 110(1) of the Financial Regulation and, once notified to the Member State concerned, a legal commitment within the meaning of that Regulation. That implementing decision shall specify the contribution per year.

2. The Union’s budgetary commitments in respect of each CAP Strategic Plan shall be made in annual instalments between 1 January ***2023 and 31 December 2027. By way of derogation from Article 111(2) of the Financial Regulation, for each CAP Strategic Plan, the budgetary commitments for the first instalment shall be made after the Commission approves that CAP Strategic Plan and notifies the Member State concerned thereof. The budgetary commitments for subsequent instalments shall be made by the Commission before 1 May of each year, on the basis of the implementing decision referred to in paragraph 1 of this Article, except where Article 16 of the Financial Regulation applies.***

Section 3

Financial contribution to interventions for rural development

Article ***30***

Provisions applying to payments for interventions for rural development

1. The appropriations necessary to finance the expenditure referred to in Article 6 shall be made available to Member States in the form of prefinancing, interim payments and the payment of a balance, as described in this Section.

2. The combined total of prefinancing and interim payments shall not exceed 95 % of the EAFRD's contribution to each CAP Strategic Plan.

   When the ceiling of 95 % is reached, the Member States shall continue transmitting requests for payments to the Commission.

Article ***31***

Prefinancing arrangements

1. Following its implementing decision approving the CAP Strategic Plan, the Commission shall pay an initial prefinancing amount to the Member State for the entire duration of the CAP Strategic Plan. This initial prefinancing amount shall be paid in instalments as follows:

   (a) in ***2023***: 1 % of the amount of support from the EAFRD for the entire duration of the CAP Strategic Plan;

   (b) in ***2024***: 1 % of the amount of support from the EAFRD for the entire duration of the CAP Strategic Plan;

   (c) in ***2025***: 1 % of the amount of support from the EAFRD for the entire duration of the CAP Strategic Plan.

   If a CAP Strategic Plan is approved in ***2024*** or later, the instalments from previous years shall be paid without delay following such approval.

2. The total amount paid as prefinancing shall be reimbursed to the Commission if no expenditure is effected and no declaration of expenditure for the CAP Strategic Plan is sent within 24 months of the date on which the Commission pays the first instalment of the prefinancing amount. That prefinancing shall be offset against the earliest expenditure declared for the CAP Strategic Plan.

3. No additional prefinancing shall be paid or recovered where a transfer to or from the EAFRD has taken place in accordance with Article ***103*** of Regulation (EU) 2021/…[+].

4. Interest generated on the prefinancing shall be used for the CAP Strategic Plan concerned and deducted from the amount of public expenditure indicated on the final declaration of expenditure.

5. The total prefinancing amount shall be cleared in accordance with the procedure referred to in Article ***53*** before the CAP Strategic Plan is closed.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

Article ***32***

Interim payments

1. Interim payments shall be made for each CAP Strategic Plan. They shall be calculated by applying the contribution rate ***referred to in Article 91 of Regulation (EU) 2021/…***[+] to the public expenditure effected ***for each type of intervention, excluding payments made from the additional national financing*** referred to in Article ***115(5) of that Regulation.***

   Interim payments shall also include the amounts referred to in Article 94(2) of Regulation (EU) 2021/…[+].

2. Subject to the availability of resources, the Commission shall, taking account of reductions or suspensions applied under Articles ***39*** to ***42,*** make interim payments in order to reimburse the expenditure effected by accredited paying agencies in implementing the CAP Strategic Plans.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

3. Where financial instruments are implemented in accordance with Article ***59(1)*** of Regulation (EU) ***2021/1060,*** the declaration of expenditure shall include the total amounts disbursed or, in the case of guarantees, set aside ***for*** guarantee contracts by the managing authority to, or for the benefit of, final recipients as referred to in ***Article 80(5), first subparagraph,*** points (a), (b) and (c) of ▌ Regulation (EU) 2021/…[+].

4. Where financial instruments are implemented in accordance with Article ***59(2)*** of Regulation (EU) ***2021/1060,*** the declaration of expenditure that includes expenditure for financial instruments shall be submitted in accordance with the following conditions:

   (a) the amount included in the first declaration of expenditure shall have been previously paid to the financial instrument and may be up to ***30*** % of the total amount of the ***eligible public expenditure*** committed to the financial instruments under the relevant funding agreement;

   (b) the amount included in subsequent declarations of expenditure submitted during the eligibility period defined in Article ***86***(***4***) of Regulation (EU) 2021/…[+] shall include the eligible expenditure referred to in ▌ Article ***80(5) of that Regulation***.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

5. ***Amounts paid in accordance with paragraph 4, point (a), of this Article shall be considered to be advances for the purposes of Article 37(2).*** The amount included in the first declaration of expenditure, referred to in ▌ paragraph 4, ***point (a), of this Article,*** shall be cleared from Commission accounts no later than in the annual accounts for the last implementation year for the relevant CAP Strategic Plan.

6. Each interim payment shall be made by the Commission, subject to compliance with the following requirements:

   (a) transmission to the Commission of a declaration of expenditure signed by the accredited paying agency, in accordance with Article ***90***(1)***, point*** (c);

   (b) no overrun of the total EAFRD contribution to each type of intervention for the entire period covered by the CAP Strategic Plan concerned;

   (c) transmission to the Commission of the documents to be submitted in accordance with Article ***9***(3) and Article ***12***(2).

7. If any of the requirements laid down in paragraph 6 is not met, the Commission shall forthwith inform the accredited paying agency, or the coordinating body where one has been designated. If any of the requirements laid down in ***paragraph 6,*** point (a) or point (c)***,*** is not fulfilled, the declaration of expenditure shall be deemed inadmissible.

8. Without prejudice to Articles ***53, 54*** and ***55,*** the Commission shall make interim payments within 45 days of registering a declaration of expenditure which meets the requirements laid down in paragraph 6 of this Article.

9. Accredited paying agencies shall establish interim declarations of expenditure relating to CAP Strategic Plans and send these to the Commission, either directly or via the coordinating body, where one has been designated, within periods to be set by the Commission. The Commission shall adopt implementing acts laying down those periods. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

Declarations of expenditure shall cover expenditure that the paying agencies have effected during each of the periods concerned. ***They shall also cover the amounts referred to in Article 94(2) of Regulation (EU) 2021/…[+].*** However, if expenditure referred to in Article ***86***(***3***) of that Regulation cannot be declared to the Commission in the period concerned due to ***the*** pending approval by the Commission of an amendment to the CAP Strategic Plan ▌ ***in accordance with Article 119(10) of that Regulation, that expenditure*** may be declared in subsequent periods.

Interim declarations of expenditure in respect of expenditure effected from 16 October onwards shall be booked to the following year's budget.

10. Where the authorising officer by sub-delegation requires further verification owing to incomplete or unclear information provided or arising from disagreement, differences of interpretation or any other inconsistency relating to a declaration of expenditure for a reference period, arising in particular from a failure to communicate the information required under Regulation (EU) 2021/…[+] and Commission acts adopted pursuant to that Regulation, the Member State concerned shall, upon request by the authorising officer by sub-delegation, provide additional information within a period set in that request according to the seriousness of the problem.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

The time limit for interim payments laid down in paragraph 8 may be interrupted, for all or part of the amount for which payment is claimed, for a maximum period of six months from the date on which the request for information is sent until receipt of the information requested which is deemed satisfactory. The Member State may agree to extend the interruption period for a further period of three months.

Where the Member State concerned fails to respond to the request for additional information within the period set in that request or where the response is considered unsatisfactory or indicates that the applicable rules have not been complied with or that Union funds have been improperly used, the Commission may suspend or reduce payments in accordance with Articles ***39*** to ***42***.

Article ***33***

Payment of the balance and closure of the interventions for rural development in the CAP Strategic Plan

1. After receiving the last annual performance report on the implementation of a CAP Strategic Plan, the Commission shall pay the balance, subject to the availability of resources, on the basis of the financial plan in force at the level of the types of EAFRD intervention, of the annual accounts for the last implementation year for the relevant CAP Strategic Plan and of the corresponding clearance decisions. Those accounts shall be presented to the Commission no later than six months after the final eligibility date of expenditure provided for in Article ***86***(***4***) of Regulation (EU) ***2021/…***[+] and shall cover the expenditure effected by the paying agency up to the last eligibility date of expenditure.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

2. The balance shall be paid no later than six months from the date on which the information and documents referred to in paragraph 1 of this Article are considered to be admissible by the Commission and the last set of annual accounts has been cleared. Without prejudice to Article ***34***(5), the amounts still committed after the balance is paid shall be decommitted by the Commission within a period of six months.

3. If, by the time limit set out in paragraph 1 of this Article, the Commission has not received the last annual performance report and the documents needed for clearance of the annual accounts for the last implementation year of the CAP Strategic Plan, the balance shall be automatically decommitted in accordance with Article ***34.***

Article ***34***

Automatic decommitment for CAP Strategic Plans

1. The Commission shall automatically decommit any portion of a budgetary commitment for interventions for rural development in a CAP Strategic Plan that has not been used for the purposes of prefinancing or for making interim payments or for which it has received no declaration of expenditure fulfilling the requirements laid down in Article ***32(6), points (a) and (c),*** in relation to expenditure effected by 31 December of the second year following that of the budgetary commitment.

2. The part of budgetary commitments that is still open on the last eligibility date for expenditure as referred to in Article ***86***(***4***) of Regulation (EU) ***2021/…***[+] ***for*** which no declaration of expenditure has been made within six months of that date shall be automatically decommitted.

3. In the event of legal proceedings or of an administrative appeal having suspensory effect, the period for automatic decommitment referred to in paragraph 1 or 2 shall, in respect of the amount relating to the operations concerned, be interrupted for the duration of those proceedings or that administrative appeal, provided that the Commission receives a reasoned notification from the Member State by 31 January of year N + 3.

4. The following shall be disregarded in calculating the automatic decommitment:

   (a) that part of the budgetary commitments for which a declaration of expenditure has been made but for which reimbursement has been reduced or suspended by the Commission on 31 December of year N + 2;

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(b) that part of the budgetary commitments which a paying agency has been unable to disburse for reasons of force majeure seriously affecting the implementation of the CAP Strategic Plan; national authorities claiming force majeure shall demonstrate the direct consequences on the implementation of all or part of the interventions for ***rural development in the*** CAP Strategic Plan.

By 31 January of each year, the Member State shall send to the Commission information on the exceptions referred to in the first subparagraph concerning the amounts declared by the end of the preceding year.

5. The Commission shall inform Member States in good time if there is a risk of automatic decommitment. It shall inform them of the amount involved as indicated by the information in its possession. The Member States shall have two months from the date upon which they receive that information to agree to the amount concerned or to submit comments. The Commission shall carry out the automatic decommitment not later than nine months after the expiry of the last time-limit referred to in paragraphs 1, 2 and 3.

6. In the event of automatic decommitment, the EAFRD contribution to the CAP Strategic Plan concerned shall be reduced, for the year in question, by the amount automatically decommitted. The Member State concerned shall produce a revised financing plan splitting the reduction of the aid among the types of intervention for approval by the Commission. If it does not do so, the Commission shall reduce the amounts allocated to each type of intervention pro rata.

CHAPTER III
Common provisions

Article ***35***
Agricultural financial year

Without prejudice to special provisions on declarations of expenditure and revenue relating to public intervention laid down by the Commission pursuant to ***Article 47(2),*** first subparagraph***,*** ***point (a***), the financial year shall cover expenditure paid and revenue received and entered in the accounts of the EAGF and EAFRD by the paying agencies in respect of financial year N beginning on 16 October of year N – 1 and ending on 15 October of year N.

Article ***36***

No double funding

Member States shall ensure that expenditure financed under the EAGF or the EAFRD is not the subject of any other financing from the Union budget.

Under the EAFRD, an operation may receive different forms of support from the CAP Strategic Plan and from the other f***unds referred to in Article 1(1) of Regulation (EU) 2021/1060*** or from other Union instruments only if the total cumulated aid amount granted under the different forms of support does not exceed the highest aid intensity or aid amount applicable to that type of intervention as referred to in Title III of Regulation (EU) ▌2021/…[+]. In such cases Member States shall not declare ***the same*** expenditure to the Commission for support:

(a) from another ▌ fund ***referred to in Article 1(1) of Regulation (EU) 2021/1060*** or from another Union instrument; or

(b) from the same CAP Strategic Plan.

The amount of expenditure to be entered into a declaration of expenditure may be calculated on a pro rata basis, in accordance with the document setting out the conditions for support.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

Article ***37***

Eligibility of expenditure effected by the paying agencies

1. The expenditure referred to in Article 5(2) and Article 6 may be financed by the Union only if ***it has been effected by accredited paying agencies and if:***

   (a) ▌ it has been effected in accordance with the applicable Union rules; or

   (***b***) as regards types of intervention referred to in Regulation (EU) 2021/…[+]:

      (i) it is matched by a corresponding reported output; and

      (ii) it has been effected in accordance with the applicable governance systems, not extending to the eligibility conditions for individual beneficiaries laid down in the relevant CAP Strategic Plan.

2. Paragraph 1, point (***b***)(i), shall not apply to advances paid to beneficiaries under types of intervention referred to in Regulation (EU) 2021/…[+].

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

Article ***38***

Compliance with payment deadlines

1. Where payment deadlines are laid down by Union law, any payment that a paying agency makes to a beneficiary before the earliest possible date of payment or after the latest possible date of payment shall be ineligible for Union financing.

2. The Commission is empowered to adopt delegated acts in accordance with Article ***102*** supplementing this Regulation with rules on the circumstances and conditions in which the payments referred to in ▌ paragraph ***1*** of this Article may be deemed eligible, taking into account the principle of proportionality.

Article ***39***

Reduction of monthly and interim payments

1. Where the Commission establishes from declarations of expenditure or the information, declarations and documents referred to in Article ***90*** that financial ceilings set by Union law have been exceeded, the Commission shall reduce the monthly or interim payments to the Member State concerned in the framework of the implementing acts concerning the monthly payments referred to in Article ***21***(3) or in the framework of the interim payments referred to in Article ***32.***

2. Where the Commission establishes from declarations of expenditure or the information, declarations and documents referred to in Article ***90*** that the payment deadlines referred to in Article ***38*** have not been complied with, it shall inform the Member State concerned thereof and give it the opportunity to submit its comments within a period which shall not be less than 30 days. Where the Member State fails to submit its comments within that period or where the Commission ***has concluded that*** the response ***provided is manifestly insufficient***, the Commission may reduce the monthly or interim payments to the Member State concerned in the framework of the implementing acts concerning the monthly payments referred to in Article ***21***(3) or in the framework of the interim payments referred to in Article ***32.***

3. Reductions under this Article shall be without prejudice to Article ***53.***

4. The Commission may adopt implementing acts laying down further rules on the procedure and other practical arrangements for the proper functioning of the mechanism provided for in Article ***38.*** Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

Article ***40***

Suspension of payments in relation to the annual clearance

1. Where Member States do not submit the documents referred to in ***Article 9***(3) and ***Article 12***(2) by the deadlines provided for in Article ***9***(3), the Commission may adopt implementing acts suspending the total amount of the monthly payments referred to in Article ***21***(3). The Commission shall reimburse the suspended amounts when it receives the missing documents from the Member State concerned, provided that the date of receipt is not later than six months after the deadline concerned.

   As regards the interim payments referred to in Article ***32,*** declarations of expenditure shall be deemed inadmissible in accordance with paragraph 7 of that Article.

2. Where, in the framework of the annual performance clearance referred to in Article ***54,*** the Commission establishes that the difference between the expenditure declared and the amount corresponding to the relevant reported output is more than 50 % and the Member State cannot provide duly justified reasons, the Commission may adopt implementing acts suspending the monthly payments referred to in Article ***21***(3) or the interim payments referred to in Article ***32.***

The suspension shall be applied to the relevant expenditure in respect of the interventions which have been subject to the reduction referred to in Article ***54***(2) and the amount to be suspended shall not exceed the percentage corresponding to the reduction applied in accordance with Article ***54***(2). The amounts suspended shall be reimbursed by the Commission to the Member States or permanently reduced ***at the latest*** by means of the implementing act referred to in Article ***54 relating to the year for which the payments were suspended. However, if Member States demonstrate that the necessary corrective actions have been taken, the Commission may lift the suspension earlier in a separate implementing act.***

3. The Commission is empowered to adopt delegated acts in accordance with Article ***102*** supplementing this Regulation with rules on the rate of suspension of payments.

▌

4. The implementing acts provided for in paragraphs 1 and 2 of this Article shall be adopted in accordance with the advisory procedure referred to in Article ***103***(2).

Before adopting ***the*** implementing acts ***referred to in paragraph 1 and in paragraph 2, first subparagraph***, of this Article, the Commission shall inform the Member State concerned of its intention and shall give the Member State the opportunity to submit its comments within a period which shall not be less than 30 days.

5. The implementing acts determining the monthly payments referred to in Article ***21***(3) or the interim payments referred to in Article ***32*** shall take account of the implementing acts adopted under this Article.

Article ***41***

Suspension of payments in relation to the multi-annual performance monitoring

1. ***Where,*** in accordance with ***Article 135(2)*** and ***(3)*** of Regulation (EU) 2021/…[+], the Commission ***asks*** the Member State concerned to ***submit*** an action plan***, that Member State shall establish such an action plan*** in consultation with the Commission. The action plan shall ***include the intended remedial actions and clear progress indicators together with the timeframe during which the progress has to be achieved. That timeframe may extend beyond one financial year.***

The Member State concerned shall respond within a period of two months of the Commission's request for an action plan.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

Within a period of two months of receipt of the action plan from the Member State concerned, the Commission shall, where appropriate, inform that Member State in writing of its objections to the action plan submitted and request its modification. The Member State concerned shall comply with the action plan, as accepted by the Commission, and comply with the expected timeframe for its execution.

The Commission ***shall*** adopt implementing acts laying down further rules on the ***structure*** of ***the*** action plans and the procedure for setting up the action plans. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

2. If the Member ***State*** fails to submit or to implement the action plan referred to in paragraph 1 ***of this Article,*** or if that action plan is manifestly insufficient to remedy the situation, ***or if it has not been modified in accordance with the written request of the Commission referred to in that paragraph***, the Commission may adopt implementing acts suspending the monthly payments referred to in Article ***21***(3) or the interim payments referred to in Article ***32.***

By way of derogation from the first subparagraph of this paragraph, the request for an action plan by the Commission for the financial year 2025 shall not lead to a suspension of payments before the performance review for the financial year 2026, as provided for in Article 135(3) of Regulation (EU) 2021/...[+].

The suspension ***of payments referred to in the first subparagraph*** shall be applied in accordance with the principle of proportionality to the relevant expenditure related to the interventions which were to be covered by that action plan.

The Commission shall reimburse the suspended amounts when, on the basis of the performance review referred to in Article ***135*** of Regulation (EU) 2021/...[+] ***or on the basis of the voluntary notification made during the financial year by the Member State concerned on the advancement of the action plan and of the corrective action taken to remedy the shortfall,*** satisfactory progress towards targets is achieved.

If the situation is not remedied by the ***end of the 12th month following the suspension of payments***, the Commission may adopt an implementing act definitively reducing the amount suspended for the Member State concerned.

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The implementing acts provided for in ***this paragraph*** shall be adopted in accordance with the advisory procedure referred to in Article ***103***(2).

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

Before adopting ***such*** implementing acts, the Commission shall inform the Member State concerned of its intention and shall ask it to respond within a period which shall not be less than 30 days.

3. The Commission is empowered to adopt delegated acts in accordance with Article 102 supplementing this Regulation with rules on the rate and duration of suspension of payments and the condition for reimbursing or reducing those amounts with regard to the multi-annual performance monitoring.

Article ***42***

Suspension of payments in relation to deficiencies in the governance systems

1. In the event of serious deficiencies in the proper functioning of the governance systems, the Commission ***shall, where necessary,*** ask the Member State concerned to ***submit an action plan including*** the necessary remedial actions ***and*** clear progress indicators***. That action plan shall*** be established in consultation with the Commission. ***The Member State concerned shall respond within a period of two months of the Commission's request in order to assess the need for an action plan.***

The Commission ***shall*** adopt implementing acts laying down ▌ rules on the ***structure*** of the action plans and the procedure for setting up the action plans. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

2. If the Member State fails to submit or to implement the action plan referred to in paragraph 1 ***of this Article,*** or if that action plan is manifestly insufficient to remedy the situation, ***or if it has not been implemented in accordance with the written request of the Commission referred to in that paragraph***, the Commission may adopt implementing acts suspending the monthly payments referred to in Article ***21***(3) or the interim payments referred to in Article ***32.***

The suspension shall be applied in accordance with the principle of proportionality to the relevant expenditure effected by the Member State where the deficiencies exist, for a period to be determined in the implementing acts referred to in the first subparagraph ***of this paragraph*** which shall not exceed 12 months. If the conditions for the suspension continue to be met, the Commission may adopt implementing acts prolonging that period for further periods not exceeding 12 months in total. The amounts suspended shall be taken into account when adopting the implementing acts referred to in Article ***55.***

3. The implementing acts provided for in ***paragraph*** 2 shall be adopted in accordance with the advisory procedure referred to in Article ***103***(2).

Before adopting such implementing acts ▌, the Commission shall inform the Member State concerned of its intention and shall ask it to respond within a period which shall not be less than 30 days.

4. The ***implementing acts*** determining the monthly payments referred to in Article ***21***(3) or the interim payments referred to in Article ***32*** ▌ shall take into account implementing acts ***adopted under paragraph 2 of this Article***.

Article ***43***

Keeping separate accounts

1. Each paying agency shall keep a set of separate accounts for the appropriations entered in the Union budget for the EAGF and EAFRD.

2. The Commission may adopt implementing acts laying down further rules on the obligation laid down in this Article and the specific conditions applying to the information to be booked in the accounts kept by the paying agencies. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

Article ***44***

Payment to beneficiaries

1. Except where otherwise explicitly provided for in Union law, Member States shall ensure that payments relating to the financing provided for in this Regulation are disbursed to the beneficiaries in full.

2. Member States shall ensure that the payments under the interventions and measures referred to in Article ***65***(2) are made at the earliest on 1 December and at the latest on 30 June of the following calendar year.

   Notwithstanding the first subparagraph, Member States may:

   (a) prior to 1 December, but not before 16 October, pay advances of up to 50 % for interventions in the form of direct payments ***and for the measures referred to in Chapter IV of Regulation (EU) No 228/2013 and in Chapter IV of Regulation (EU) No 229/2013***;

   (b) prior to 1 December pay advances of up to 75 % for the support granted under interventions for rural development referred to in Article ***65***(2).

3. Member States may decide to pay advances of up to 50 % under the interventions referred to in Articles ***73*** and ***77*** of Regulation (EU) 2021/…[+].

4. The Commission is empowered to adopt delegated acts in accordance with Article ***102 amending this Article by adding rules allowing Member States to pay advances as regards the interventions referred to in Title III, Chapter III, of Regulation (EU) 2021/…[+] and as regards measures regulating or supporting agricultural markets laid down in Regulation (EU) No 1308/2013 in order to ensure the coherent and non-discriminatory payment of advances.***

5. The Commission is empowered to adopt delegated acts in accordance with Article 102 supplementing this Regulation by setting up specific conditions for the payment of advances to ensure the coherent and non-discriminatory payment of advances.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

6. ***Upon the request of a Member State, in*** the event of an emergency, ***and within the limits of Article 11(2), point (b), of the Financial Regulation,*** the Commission ***shall*** adopt***, where appropriate,*** implementing acts ▌ concerning the application of this Article. Those implementing acts may derogate from paragraph 2 ***of this Article,*** but only to the extent that, and for such a period, as is strictly necessary. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

Article ***45***

Assignment of revenue

1. The following shall be considered as assigned revenue within the meaning of Article 21(5) of the Financial Regulation:

   (a) as regards expenditure under both the EAGF and the EAFRD, sums under Articles ***38,*** 54 ***and 55*** of this Regulation and Article 54 of Regulation (EU) No 1306/2013 applicable in accordance with Article ***104*** of this Regulation and, as regards expenditure under the EAGF, sums under ***Articles 53*** and ***56*** of this Regulation which are to be paid into the Union budget, including interest thereon;

   (b) amounts corresponding to penalties applied in accordance with Articles ***12*** and 14 of Regulation (EU) 2021/…[+] as regards expenditure under the EAGF;

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(c) any security, deposit or guarantee provided pursuant to Union law adopted within the framework of the CAP, excluding interventions for rural development, and subsequently forfeited; however, forfeited securities lodged when issuing export or import licences or under a tendering procedure for the sole purpose of ensuring that tenderers submit genuine tenders shall be retained by the Member States;

(d) sums definitively reduced in accordance with Article ***41***(2)**.**

2. The sums referred to in paragraph 1 shall be paid into the Union budget and, in the event of reuse, shall be used exclusively to finance EAGF or EAFRD expenditure.

3. This Regulation shall apply *mutatis mutandis* to assigned revenue referred to in paragraph 1.

4. As regards the EAGF, ***Article*** 113 of the Financial Regulation shall apply *mutatis mutandis* to the keeping of accounts on assigned revenue referred to in this Regulation.

Article ***46***

Information measures

1. The provision of information financed pursuant to ***Article 7,*** point (e)***,*** shall aim, in particular, to help explain, implement and develop the CAP and to raise public awareness of its content and objectives, ***including its interaction with the climate, the environment and animal welfare. This is done to inform citizens about the challenges faced in agriculture and food, to inform farmers and consumers, to restore*** consumer confidence following crises through information campaigns, to inform other parties active in rural areas and to promote ***a more sustainable Union*** model of agriculture, as well as to help citizens understand it.

   It shall supply coherent, ***evidence-based,*** objective and comprehensive information, both inside and outside the Union***, and outline the communication actions planned in the Commission´s multiannual strategic plan for agriculture and rural development***.

2. The measures referred to in paragraph 1 may consist of:

   (a) annual work programmes or other specific measures presented by third parties;

   (b) activities implemented on the initiative of the Commission.

Those measures which are required by law or those measures already receiving financing under another Union action shall be excluded.

When implementing the activities referred to in ▌ the first subparagraph***, point (b)***, the Commission may be assisted by external experts.

The measures referred to in the first subparagraph shall also contribute to the corporate communication of the Union's political priorities in so far as those priorities are related to the general objectives of this Regulation.

3. The Commission shall publish once a year a call for proposals respecting the conditions set out in the Financial Regulation.

4. The committee referred to in Article ***103***(1) shall be notified of measures envisaged and taken pursuant to this Article.

5. The Commission shall submit a report on the implementation of this Article to the European Parliament and to the Council every two years.

Article ***47***

Other Commission powers relating to this Chapter

1. The Commission is empowered to adopt delegated acts in accordance with Article ***102*** supplementing this Regulation with the conditions under which certain types of expenditure and revenue under the EAGF and EAFRD are to be compensated.

If the Union budget has not been adopted by the beginning of the budgetary year or if the total amount of the commitments scheduled exceeds the threshold laid down in Article 11(2) of the Financial Regulation, the Commission is empowered to adopt delegated acts in accordance with Article ***102 of this Regulation*** supplementing this Regulation with rules on the method applicable to the commitments and the payment of the amounts.

2. The Commission may adopt implementing acts laying down rules on:

(a) the financing and accounting of intervention measures in the form of public storage, and other expenditure financed by the EAGF and EAFRD;

(b) the terms and conditions governing the implementation of the automatic decommitment procedure.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

CHAPTER IV

Clearance of accounts

Section 1

General provisions

Article ***48***

Single audit approach

In accordance with Article 127 of the Financial Regulation, the Commission shall take assurance from the work of the certification bodies referred to in Article ***12*** of this Regulation, unless it has informed the Member State concerned that it cannot rely on the work of the certification body for a given financial year, and it shall take it into account in its risk assessment of the need for Commission audits in that Member State. ***The Commission shall inform that Member State of the reasons why it cannot rely on the work of the certification body concerned.***

Article ***49***

Checks by the Commission

1. Without prejudice to the checks carried out by Member States under national laws, regulations and administrative provisions or Article 287 ***TFEU,*** to any check organised under Article 322 ***TFEU*** or based on ▌ Regulation (Euratom, EC) No 2185/***96, or to Article 127 of the Financial Regulation,*** the Commission may organise checks in Member States with a view to verifying in particular whether:

   (a) administrative practices comply with Union rules;

   (b) the expenditure falling within the scope of ***Article*** 5(2) and ***Article*** 6 ***of this Regulation*** and corresponding to the interventions referred to in Regulation (EU) 2021/…[+] has a corresponding output as reported in the annual performance report;

   (c) the ***expenditure corresponding to the measures laid down in Regulations (EU) No 228/2013, (EU) No 229/2013, (EU) No 1308/2013 and (EU) No 1144/2014 has been effected and checked in accordance with applicable Union rules;***

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(d) ***the*** work of the certification body is carried out in accordance with Article ***12*** and for the purposes of Section 2 of this Chapter;

(***e***) a paying agency complies with the minimum conditions for the accreditation laid down in Article ***9***(2) and whether the Member State correctly applies Article ***9***(***4***)***;***

(f) ***the Member State concerned implements the CAP Strategic Plan in accordance with Article 9 of Regulation (EU) 2021/…[+];***

(g) ***the action plans referred to in Article 42 are correctly implemented***.

Persons authorised by the Commission to carry out checks on its behalf, or Commission agents acting within the scope of the powers conferred on them, shall have access to the books and all other documents, including documents and metadata drawn up or received and recorded on an electronic medium, relating to expenditure financed by the EAGF or the EAFRD.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

The powers to carry out checks shall not affect the application of national provisions which reserve certain acts for agents specifically designated by national law. Without prejudice to the specific provisions of Regulation (Euratom, EC) No 2185/96 and Regulation (EU, Euratom) No 883/2013, persons authorised by the Commission to act on its behalf shall not take part, inter alia, in home visits or the formal questioning of persons on the basis of law of the Member State concerned. However, they shall have access to information thus obtained.

2. The Commission shall give sufficient prior notice of a check to the Member State concerned or to the Member State within whose territory the check is to take place, taking into account the administrative impact on paying agencies when organising checks. Agents from the Member State concerned may take part in such checks.

At the request of the Commission and with the agreement of the Member State, additional checks or inquiries into the operations covered by this Regulation shall be undertaken by the competent bodies of that Member State. Commission agents or persons authorised by the Commission to act on its behalf may take part in such checks.

In order to improve checks, the Commission may, with the agreement of the Member States concerned, request the assistance of the authorities of those Member States for certain checks or inquiries.

Article ***50***

Access to information

1. Member States shall make available to the Commission all information necessary for the smooth operation of the EAGF and EAFRD and shall take all appropriate measures to facilitate the checks which the Commission deems appropriate in connection with the management of Union financing.

2. Member States shall communicate to the Commission at its request the laws, regulations and administrative provisions which they have adopted in order to implement the Union legal acts relating to the CAP and which have a financial impact on the EAGF or the EAFRD.

3. Member States shall make available to the Commission information about irregularities within the meaning of Regulation (***EC***, Euratom) No 2988/95 and other cases of non-compliance with the conditions established by Member States in their CAP Strategic Plans, about suspected fraud cases detected, and about the steps taken pursuant to Section 3 of this Chapter to recover undue payments in connection with those irregularities and frauds. ***The Commission shall summarise and publish that information annually and shall communicate it to the European Parliament.***

Article ***51***

Access to documents

1. The accredited paying agencies shall keep supporting documents relating to payments made and documents relating to the performance of the checks required by Union law, and shall make those documents and related information available to the Commission.

Those documents and that information may be kept in electronic form under the conditions laid down by the Commission pursuant to paragraph 3.

Where those documents and that information are kept by an authority acting under delegation from a paying agency and responsible for authorising expenditure, that authority shall send reports to the accredited paying agency on the number of checks made, their content and the measures taken in the light of their results.

2. This Article shall apply *mutatis mutandis* to the certification bodies.

3. The Commission may adopt implementing acts laying down rules on the conditions under which the documents and information referred to in this Article are to be kept, including their form and the time period of their storage. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

Article ***52***

Commission powers ***relating to checks and documents and information and cooperation obligation***

1. The Commission is empowered to adopt delegated acts in accordance with Article ***102*** ***which are necessary to ensure the correct and efficient application of the provisions relating to checks and access to documents and information set out in this Chapter,*** supplementing this Regulation with specific obligations to be complied with by the Member States under this Chapter and with rules ▌ on the criteria for determining the cases of irregularity within the meaning of Regulation (EC, Euratom) No 2988/95 and other cases of non-compliance with the conditions established by Member States in the CAP Strategic Plans to be reported and on the data to be provided in this context.

2. The Commission may adopt implementing acts laying down rules on the procedures relating to the cooperation obligations to be complied with by the Member States for the implementation of Articles ***49*** and ***50***. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

Section 2

Clearance

Article ***53***

Annual financial clearance

1. Prior to 31 May of the year following the relevant budgetary year and on the basis of the information referred to in ***Article 9(3), first subparagraph,*** points (a) and (d) ▌, the Commission shall adopt implementing acts containing its decision on the clearance of the accounts of the accredited paying agencies for the expenditure referred to in Article 5(2) and Article 6. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article ***103***(2).

Those implementing acts shall cover the completeness, accuracy and veracity of the annual accounts submitted and shall be without prejudice to the content of the implementing acts subsequently adopted pursuant to Articles ***54*** and ***55.***

2. The Commission shall adopt implementing acts laying down rules on the ***actions necessary for the purposes of*** adoption ***and implementation*** of the implementing acts referred to in ***paragraph 1,*** including the ***rules on*** information exchange between the Commission and the Member States and the deadlines to be respected. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

Article ***54***

Annual performance clearance

1. Where the expenditure referred to in ***Article*** 5(2) and ***Article 6 of this Regulation*** and corresponding to the interventions referred to in Title III of Regulation (EU) 2021/…[+] does not have a corresponding output as reported in the annual performance report ***referred to in Article 9(3) and Article 10 of this Regulation and in Article 134 of Regulation (EU) 2021/…***[+], the Commission shall adopt implementing acts prior to 15 October of the year following the relevant budgetary year determining the amounts to be reduced from Union financing. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article ***103***(2).

   Those implementing acts shall be without prejudice to the content of the implementing acts subsequently adopted pursuant to Article ***55*** of this Regulation.

2. The Commission shall assess the amounts to be reduced on the basis of the difference between the annual expenditure declared for an intervention and the amount corresponding to the relevant reported output in accordance with the CAP Strategic Plan and taking account of justifications provided by the Member State ***in the annual performance reports in accordance with Article 134(8) of Regulation (EU) 2021/…***[+].

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

3. Before the adoption of the implementing act referred to in paragraph 1 ***of this Article,*** the Commission shall give the Member State concerned an opportunity to submit its comments and justify any differences ***within a period which, where the documents referred to in Article 9(3), Article 10 and Article 12(2) have been submitted by the deadline, shall not be less than 30 days***.

4. The Commission is empowered to adopt delegated acts in accordance with Article ***102*** supplementing this Regulation with rules on the criteria for justifications from the concerned Member State and the methodology and criteria for applying reductions.

5. The Commission shall adopt implementing acts laying down rules on the ***actions necessary for the purposes of*** adoption ***and implementation*** of the implementing ***acts*** referred to in paragraph 1 of this Article ▌, including the ***rules on*** information exchange between the Commission and the Member States ▌ and the deadlines to be respected. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

Article ***55***

Conformity procedure

1. Where the Commission finds that the expenditure referred to in Article 5(2) and Article 6 has not been effected in conformity with Union law, it shall adopt implementing acts determining the amounts to be excluded from Union financing. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article ***103***(2).

However, as regards the types of intervention referred to in Regulation (EU) 2021/...[+], the exclusions from Union financing referred to in the first subparagraph ***of this paragraph*** shall only apply in the case of serious deficiencies in the proper functioning of the governance systems of the Member States.

The first subparagraph shall not apply to cases of non-compliance with the eligibility conditions for individual beneficiaries laid down in the CAP Strategic Plans and national rules.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

2. The Commission shall assess the amounts to be excluded on the basis of the gravity of the deficiencies found. ***In that context, it shall take due account of the nature of those deficiencies and of the financial damage incurred by the Union.***

3. Before the adoption of the implementing act referred to in paragraph 1, the Commission findings and the comments of the Member State concerned to those findings shall be notified between the two parties in writing, following which they shall attempt to reach an agreement on the action to be taken. The Member State concerned shall be given the opportunity to demonstrate that the actual extent of the non-compliance is lower than the Commission's assessment.

If no agreement is reached, the Member State concerned may request the opening of a procedure aimed at reconciling, within a period of four months, each party's position. The procedure shall be carried out by a conciliation body. A report on the outcome of that procedure shall be submitted to the Commission. The Commission shall take into account the recommendations of the report before deciding on refusal of the financing and shall provide justification if it decides not to follow those recommendations.

4. Financing shall not be refused for:

(a) the expenditure indicated in Article 5(2) which is effected more than 24 months before the Commission notifies the Member State in writing of its findings;

(b) expenditure on multiannual interventions falling within the scope of Article 5(2) or within the scope of the interventions for rural development referred to in Article 6, where the final obligation of the beneficiary occurs more than 24 months before the Commission notifies the Member State in writing of its findings;

(c) expenditure on the interventions for rural development referred to in Article 6, other than those referred to in point (b) of this paragraph, for which the payment or, as the case may be, the final payment by the paying agency is made more than 24 months before the Commission notifies the Member State in writing of its findings.

5. Paragraph 4 shall not apply in the case of:

(a) aids granted by a Member State for which the Commission has initiated the procedure laid down in Article 108(2) ***TFEU***;

(b) infringements which the Commission has notified to the Member State concerned by a reasoned opinion in accordance with Article 258 ***TFEU***;

(c) infringements by Member States of their obligations under ***Title IV,*** Chapter III***,*** of this Regulation, provided that the Commission notifies the Member State in writing of its findings within 12 months following receipt of the Member State's report on the results of its checks on the expenditure concerned.

6. The Commission is empowered to adopt delegated acts in accordance with Article ***102*** supplementing this Regulation with rules on the criteria and methodology for applying financial corrections.

7. The Commission shall adopt implementing acts laying down rules on the ***actions necessary for*** the ***purposes of*** adoption ***and implementation*** of the implementing ***acts*** referred to in paragraph 1 of this Article, including the ***rules on*** information exchange between the Commission and the Member States, on the deadlines to be respected and the conciliation procedure provided for in paragraph 3 of this Article, ***and*** on the establishment, tasks, composition and working arrangements of the conciliation body. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

Section 3

Recoveries for non-compliance

Article ***56***

Provisions specific to the EAGF

1. Sums recovered by the Member States following the occurrence of irregularities and other cases of non-compliance by beneficiaries with the conditions of the interventions referred to in the CAP Strategic Plans and the interest thereon shall be made over to the paying agency and booked by it as revenue assigned to the EAGF in the month in which the sums are actually received.

2. Member States may, without prejudice to paragraph 1, instruct the paying agency, as the body responsible for the recovery of debt, to deduct any outstanding debts owed by a beneficiary from future payments to that beneficiary.

3. When the Union budget is credited as referred to in paragraph 1, the Member State concerned may retain 20 % of the corresponding amounts as flat-rate recovery costs, except in cases of non-compliance attributable to its administrative authorities or other official bodies.

Article ***57***

Provisions specific to the EAFRD

1. Where irregularities and other cases of non-compliance by beneficiaries***, and as regards financial instruments, also by specific funds under holding funds or final recipients,*** with the conditions of the interventions for rural development specified in the CAP Strategic Plans are detected, Member States shall make financial adjustments by cancelling ***partially or, when justified, entirely*** the Union financing concerned. Member States shall take into consideration the nature and gravity of the non-compliance detected and the level of the financial loss to the EAFRD.

Amounts of the Union financing under the EAFRD which are cancelled and amounts recovered, and the interest thereon, shall be reallocated to other rural development ***operations*** in the CAP Strategic Plans. However, Member States may reuse the cancelled or recovered Union funds ***in their entirety*** only for a rural development operation under their CAP Strategic Plans and may not reallocate them to rural development operations which have been the subject of a financial adjustment.

Member States shall deduct any sums unduly paid as a result of an outstanding irregularity by a beneficiary, in accordance with this Article, from any future payments to the beneficiary by the paying agency.

2. ***By way of derogation from paragraph 1, second subparagraph, for*** interventions for rural development receiving aid from the financial instruments referred to in ***Article 58 of*** Regulation (EU) ***2021/1060,*** a contribution cancelled ▌ as a result of an individual non-compliance may be reused within the same financial instrument as follows:

(a) where the non-compliance that gives rise to the cancellation of the contribution is detected at the level of the final recipient as defined in ▌ Article ***2, point (18),*** of Regulation (EU) ***2021/1060,*** only for other final recipients within the same financial instrument;

(b) where the non-compliance that gives rise to the cancellation of the contribution is detected at the level of the specific ***fund*** as defined in ▌ Article 2***, point*** (21) ▌**,** of Regulation (EU) ***2021/1060*** within a holding ***fund*** as defined in ▌ Article 2***, point*** (20)***,*** of ***that*** Regulation ▌, only for other specific ***funds***.

Article ***58***

Implementing powers relating to the ***possible offsetting of the amounts and notification forms***

The Commission shall adopt implementing acts laying down rules on the ***possible offsetting of the amounts resulting from recovery of undue payments and the*** forms of notification and communication to be made by the Member States to the Commission in relation to the obligations set out in this Section. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

TITLE IV

CONTROL SYSTEMS AND PENALTIES

CHAPTER I

General rules

Article ***59***

Protection of the financial interests of the Union

1. Member States shall, within the framework of the CAP, ***while respecting the applicable governance systems,*** adopt all laws, regulations and administrative provisions and take any other measures necessary to ensure effective protection of the financial interests of the Union, ***including effective application of the eligibility of expenditure criteria laid down in Article 37.*** Those acts and measures shall relate in particular to:

   (a) checking the legality and regularity of operations financed by the EAGF and EAFRD***, including at the level of beneficiaries and as set out in the CAP Strategic Plans***;

   (b) ensuring effective prevention against fraud, especially in areas with a higher level of risk, which will act as a deterrent, having regard to the costs and benefits and the proportionality of the measures;

(c) preventing, detecting and correcting irregularities and fraud;

(d) imposing penalties which are effective, proportionate and dissuasive in accordance with Union law, or failing this, national law, and bring legal proceedings to that effect, as necessary;

(e) recovering undue payments plus interest and bring legal proceedings to that effect, as necessary***, including for irregularities within the meaning of Article 1(2) of Regulation (EC, Euratom) No 2988/95.***

2. Member States shall set up efficient management and control systems in order to ensure compliance with the Union legislation governing Union interventions.

Member States shall take the actions necessary to ensure the proper functioning of their management and control systems and the legality and regularity of expenditure declared to the Commission.

To assist the Member States in this respect, the Commission shall make available to the Member States a data-mining tool to assess risks presented by projects, beneficiaries, contractors and contracts while ensuring minimal administrative burden and effective protection of the Union financial interests. That data-mining tool may also be used in order to avoid circumvention of rules as referred to in Article 62. By 2025, the Commission shall present a report which assesses the use of the single data-mining tool and its interoperability with a view to its generalised use by Member States.

3. Member States shall ***ensure the quality and reliability of the reporting system and of data on indicators.***

4. Member States shall ensure that beneficiaries of the EAGF and EAFRD provide them with the information necessary for their identification, including, where applicable, the identification of the group in which they participate, as defined in Article 2, point (11), of Directive 2013/34/EU of the European Parliament and of the Council[36].

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[36] Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

5. ***Member States shall*** take appropriate precautions ensuring ***that*** the penalties applied as referred to in ▌ paragraph 1***, point (d),*** are proportionate and graduated according to the severity, extent, permanence or reoccurrence of the non-compliance detected.

The arrangements set out by Member States shall ensure, in particular, that no penalties are imposed where:

(a) the non-compliance is due to force majeure ***or exceptional circumstances in accordance with Article 3***;

(b) the non-compliance is due to an error of the competent authority or another authority, and where the error could not reasonably have been detected by the person concerned by the administrative penalty;

(c) the person concerned can demonstrate to the satisfaction of the competent authority that he or she is not at fault for the non-compliance with the obligations referred to in paragraph 1 of this Article or where the competent authority is otherwise satisfied that the person concerned is not at fault.

Where the non-compliance with the conditions for the granting of the aid is due to force majeure ***or exceptional circumstances in accordance with Article 3,*** the beneficiary shall retain the right to receive aid.

6. Member States may in their management and control systems include the possibility for aid applications and payment claims to be corrected after their submission without an effect on the right to receive aid, provided that the elements or omissions to be corrected were made in good faith as recognised by the competent authority, and that the correction is made either before the applicant is informed of being selected for an on-the-spot check or before the competent authority has taken its decision in respect of the application.

7. Member States shall introduce arrangements for ensuring the effective examination of complaints concerning the EAGF and EAFRD and shall, upon request by the Commission, examine complaints submitted to the Commission falling within the scope of their CAP Strategic Plans. Member States shall inform the Commission of the results of those examinations. ***The Commission shall ensure that complaints directly lodged with it are adequately followed up. Where the Commission forwards a complaint to a Member State and the Member State fails to follow it up by the deadline set by the Commission, the Commission shall take the necessary steps with a view to ensuring that the Member State respects its obligations under this paragraph.***

8. Member States shall inform the Commission of the measures and actions taken pursuant to paragraphs 1 and 2.

Any conditions established by Member States to supplement the conditions laid down by Union rules for receiving support financed by the EAGF or the EAFRD shall be verifiable.

9. The Commission may adopt implementing acts laying down rules necessary for the uniform application of this Article relating to:

(a) the procedures, deadlines, exchange of information***, requirements for the data-mining tool and information to be collected on the identification of beneficiaries*** in relation to the obligations as set out in paragraphs 1***, 2*** and ***4***;

(b) the notification and communication to be made by the Member States to the Commission in relation to the obligations set out in paragraphs ***5*** and ***7.***

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

Article ***60***

Rules regarding checks to be carried out

1. The management and control systems set up by the Member States in accordance with Article ***59***(2) shall include systematic checks which target, inter alia, the areas where the risk of errors is the highest.

   Member States shall ensure ***that*** a level of checks needed for an effective management of the risks ***to the financial interest of the Union is carried out. The relevant authority shall draw its check sample from the entire population of applicants comprising, where appropriate, a random part and a risk-based part***.

2. Checks of operations receiving aid from financial instruments as referred to in ▌Article ***58*** of Regulation (EU) ***2021/1060*** shall be carried out only at the level of the ***holding fund and specific funds, and, in the context of guarantee funds, at the level of bodies delivering the underlying new loans***.

   Checks shall not be carried out at the level of the EIB or other international financial institutions in which a Member State is a shareholder.

3. The Commission is empowered to adopt delegated acts in accordance with Article ***102 which are necessary to ensure that the checks are carried out correctly and efficiently and that the eligibility conditions are verified in an efficient, coherent and non-discriminatory manner which protects the financial interest of the Union,*** supplementing this Regulation with rules, where the proper management of that system so requires, on additional requirements with respect to customs procedures, and in particular to those laid down in Regulation (EU) No 952/2013 ▌.

4. As regards measures referred to in agricultural legislation, the Commission shall adopt implementing acts laying down rules necessary for the uniform application of this Article, and in particular:

(a) with regard to hemp as referred to in ▌ Article 4(4)***, second subparagraph,*** of Regulation (EU) 2021/…[+], rules on the specific control measures and methods for determining tetrahydrocannabinol levels;

(b) with regard to cotton as referred to in ▌ Title III***, Chapter II, Section 3, Subsection 2,*** of Regulation (EU) 2021/…[+], a system for checks of the approved interbranch organisations;

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(c) with regard to wine as referred to in Regulation (EU) No 1308/2013, rules on the measurement of areas, on checks and on rules governing the specific financial procedures for the improvement of checks;

(d) the tests and methods to be applied in order to establish the eligibility of products for public intervention and private storage, and the use of tendering procedures, both for public intervention and for private storage;

(e) other rules on the checks to be conducted by the Member States as regards the measures laid down in Chapter IV of Regulation (EU) No 228/2013 and in Chapter IV of Regulation (EU) No 229/2013.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

Article ***61***

Non-compliance with public procurement rules

Where the non-compliance concerns Union or national rules on public procurement, Member States shall ensure that the part of the aid not to be paid or to be withdrawn is determined on the basis of the gravity of the non-compliance and in accordance with the principle of proportionality.

Member States shall ensure that the legality and regularity of the transaction shall only be affected up to the level of the part of the aid not to be paid or to be withdrawn.

Article ***62***

Circumvention clause

Without prejudice to specific provisions of Union law, Member States shall take effective and proportionate measures to avoid provisions of Union law to be circumvented and ensure, in particular, that no advantage provided for under agricultural legislation is granted in favour of a natural or legal person in respect of whom it is established that the conditions required for obtaining such advantages were created artificially, contrary to the objectives of that legislation.

Article ***63***

Compatibility of interventions for the purposes of checks in the wine sector

For the purposes of applying the interventions in the wine sector referred to in Title III, Chapter III, Section 4, of Regulation (EU) 2021/…[+], Member States shall ensure that the administration and control procedures applied to those interventions are compatible with the integrated system referred to in Chapter II of this Title as regards:

(a) the identification systems for agricultural parcels;

(b) the checks.

Article ***64***

Securities

1. The Member States shall, where agricultural legislation so provides, request the lodging of a security giving the assurance that a sum of money will be paid or forfeited to a competent authority if a particular obligation under that legislation is not fulfilled.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

2. Except in cases of force majeure, the security shall be forfeited in whole or in part where the execution of a particular obligation is not carried out, or is carried out only partially.

3. The Commission is empowered to adopt delegated acts in accordance with Article ***102*** supplementing this Regulation with rules ▌ which ensure non-discriminatory treatment, equity and the respect of proportionality when lodging a security ***and which:***

(a) specify the responsible party in the event that an obligation is not met;

(b) ***lay*** down the specific situations in which the competent authority may waive the requirement of a security;

(***c***) ***lay*** down the conditions applying to the security to be lodged and the guarantor and the conditions for lodging and releasing that security;

(***d***) ***lay*** down the specific conditions related to the security lodged in connection with advance payments;

(***e***) ***set*** out the consequences of breaching the obligations for which a security has been lodged, as provided for in paragraph 1, including the forfeiting of securities and the rate of reduction to be applied on release of securities for refunds, licences, offers, tenders or specific applications, as well as, where an obligation covered by that security has not been met either wholly or in part, taking into account the nature of the obligation, the quantity for which the obligation has been breached, the period exceeding the time limit by which the obligation should have been met and the time by which evidence that the obligation has been met is produced.

4. The Commission may adopt implementing acts laying down rules on:

(a) the form of the security to be lodged and the procedure for lodging the security, for accepting it, and for replacing the original security;

(b) the procedures for the release of a security;

(c) the notifications to be made by Member States and by the Commission.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

CHAPTER II

Integrated administration and control system

Article ***65***

Scope and definitions relating to this Chapter

1. Each Member State shall set up and operate an integrated administration and control system (the 'integrated system').

2. The integrated system shall apply to the area- and animal-based interventions listed in ***Title III,*** Chapters II and IV***,*** of Regulation (EU) 2021/…[+] and to the measures referred to in Chapter IV of Regulation (EU) No 228/2013 ▌and in Chapter IV of Regulation (EU) No 229/2013 ▌.

3. To the extent necessary, the integrated system shall also be used for the management and control of conditionality and ***interventions*** in the wine sector as laid down in Title III of Regulation (EU) 2021/…[+].

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

4. For the purposes of this Chapter, the following definitions apply:

(a) "geo-spatial application" means an electronic application form that includes an information technology application based on a geographic information system that allows beneficiaries to spatially declare the agricultural parcels of the holding ***as defined in Article 3, point (2), of Regulation (EU) 2021/…***[+] and non-agricultural areas claimed for payment;

(b) "area monitoring system" means a procedure of regular and systematic observation, tracking and assessment of agricultural activities and practices on agricultural areas by Copernicus Sentinels satellite data or other data with at least equivalent value;

(c) "system for the identification and registration of animals" means the system for the identification and registration of kept terrestrial animals laid down by Part IV, Title I, Chapter 2, Section 1, of Regulation (EU) 2016/429 of the European Parliament and of the Council[37];

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

[37] Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health (Animal Health Law) (OJ L 84, 31.3.2016, p. 1).

(d) "agricultural parcel" means a unit***, defined by Member States,*** of ▌ agricultural area as determined in ***accordance with*** Article 4***(3)*** of Regulation (EU) 2021/…[+];

(e) "geographic information system" means a computer system capable of capturing, storing, analysing, and displaying geographically referenced information;

(f) "***automatic claim*** system" means an application system for area- or animal-based interventions in which ***the*** data required by the administration on at least individual areas or animals claimed for aid ***are*** available in official computerised databases managed by the Member State ***and made available to the beneficiary where necessary***.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

Article ***66***

Elements of the integrated system

1. The integrated system shall comprise the following elements:

(a) an identification system for agricultural parcels;

(b) a geo-spatial ***application system and, where applicable,*** an animal-based application system;

(c) an area monitoring system;

(d) a system for the identification of beneficiaries of the interventions and measures referred to in Article ***65***(2);

(e) a control and penalty system;

(f) where applicable, a system for the identification and registration of payment entitlements;

(g) where applicable, a system for the identification and registration of animals.

2. The integrated system shall ***provide information relevant for the reporting on the indicators referred to in Article 7 of Regulation (EU) 2021/…***[+].

3. ***The integrated system shall operate on the basis of electronic databases and geographic information systems and shall enable the exchange and integration of data between the electronic databases and the geographic information systems. Where relevant, geographic information systems shall allow for this exchange and integration of data on agricultural parcels in delimited protected zones and designated areas that have been established in accordance with Union legislation listed in Annex XIII to Regulation (EU) 2021/…[+], such as Natura 2000 areas or nitrate vulnerable zones within the meaning of Article 2, point (k), of Council Directive 91/676/EEC[38], as well as the landscape features under the good agricultural and environmental conditions defined in accordance with Article 13 of Regulation (EU) 2021/…[+] or covered by interventions listed in Title III, Chapters II and IV, of that Regulation.***

4. Without prejudice to the responsibilities of the Member States for the implementation and application of the integrated system, the Commission may seek the assistance of specialised bodies or persons in order to facilitate the establishment, monitoring and operation of the integrated system, in particular with a view to providing the competent authorities of the Member States with technical advice.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

[38] ***Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1).***

5. Member States shall take ***the*** measures required for the proper establishment and operation of the integrated system and***, where requested by another Member State,*** shall give one another the mutual assistance needed for the purposes of this Chapter.

Article ***67***

Data keeping and sharing

1. Member States shall record and keep any data and documentation on the annual outputs reported in the context of the annual performance clearance referred to in Article ***54,*** and the reported progress towards targets set out in the CAP Strategic Plan and monitored in accordance with Article ***128*** of Regulation (EU) 2021/…[+].

The data and documentation referred to in the first subparagraph relating to the current calendar year or marketing year and to the previous 10 calendar years or marketing years shall be accessible for consultation through the digital databases of the competent authority of the Member State.

Data used for the area monitoring system may be stored as raw data on a server external to the competent authorities. Those data shall be kept on a server for at least three years.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

By way of derogation from the second subparagraph, Member States which acceded to the Union in or after the year 2013 shall only be required to ensure that the data are available for consultation from the year of their accession.

By way of derogation from the second subparagraph, Member States shall only be required to ensure that the data and documentation related to the area monitoring system referred to in ▌ Article ***66***(1)***, point (c),*** are available for consultation as of the date of the implementation of the area monitoring system.

2. Member States may apply the requirements laid down in paragraph 1 at regional level on condition that those requirements and the administrative procedures for recording and accessing data are designed to be uniform throughout the territory of the Member State and enable data to be aggregated at national level.

3. Member States shall ensure that data sets collected through the integrated system which are relevant for the purposes of Directive 2007/2/EC of the European Parliament and of the Council[39] or for monitoring Union policies are shared free of charge between its public authorities and made publicly available at national level. Member States shall also provide the institutions and bodies of the Union with access to those data sets.

4. Member States shall ensure that data sets collected through the integrated system which are relevant for the production of European statistics in accordance with Regulation (EC) No 223/2009 ***of the European Parliament and of the Council***[40] are shared free of charge with the Commission (Eurostat), the national statistical institutes and, where necessary, with other national authorities responsible for the production of European statistics.

5. Member States shall limit public access to data sets referred to in paragraphs 3 and 4 where such access would adversely affect the confidentiality of personal data, in accordance with Regulation (EU) 2016/679.

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39 Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

40 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).

6. ***Member States shall set up their systems in such a way to ensure that beneficiaries have access to all relevant data related to them regarding the land they use or intend to use, in order to enable them to submit accurate applications.***

Article ***68***

Identification system for agricultural parcels

1. The identification system for agricultural parcels shall be a geographic information system established and regularly updated by the Member States on the basis of aerial or spatial ortho-imagery, with a uniform standard that guarantees a level of accuracy that is at least equivalent to that of cartography at a scale of 1:5 000.

2. Member States shall ensure that the identification system for agricultural parcels:

   (a) uniquely identifies each agricultural parcel and units of land containing non-agricultural areas considered eligible by the Member States for receiving the aid for the interventions referred to in Title III of Regulation (EU) 2021/…[+];

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(b) contains up-to-date values on the areas considered eligible by the Member States for receiving the aid for the interventions referred to in Article ***65***(2);

(c) enables the correct localisation of agricultural parcels and non-agricultural areas claimed for payment.

▌

3. Member States shall annually assess the quality of the identification system for agricultural parcels in accordance with the methodology set up at Union level.

Where the assessment reveals deficiencies in the system, Member States shall adopt appropriate remedial actions or, failing that, shall be requested ***by the Commission*** to set up an action plan in accordance with Article ***42.***

An assessment report and, where appropriate, the remedial actions and the timetable for their implementation shall be submitted to the Commission by 15 February following the calendar year concerned.

Article ***69***

Geo-spatial and animal-based application system

1. As regards the aid for the area-based interventions referred to in Article ***65***(2) and implemented under their CAP Strategic Plans, Member States shall require the submission of an application by means of ▌ the geo-spatial application ***form*** provided by the competent authority ▌ .

2. As regards the aid for the animal-based interventions referred to in Article ***65***(2) and implemented under their CAP Strategic Plans, Member States shall require the submission of an application.

3. Member States shall pre-fill the applications referred to in paragraphs 1 and 2 of this Article with information from the systems referred to in ▌ Article ***66***(1)***, point (g),*** and in Articles ***68, 70, 71*** and ***73*** or from any other relevant public database.

4. Member States may ***set up an automatic claim system and decide which*** applications referred to in paragraphs 1 and 2 ***it shall cover.***

5. ***If a Member State decides to use an automatic claim system, it shall set up a system which enables the administration to make the payments to the beneficiaries on the basis of the existing information in the official computerised databases. Where there has been a change, that existing information shall be supplemented with additional information, where necessary, to cover that change. The existing information and additional information available through the automatic claim system shall be confirmed by the beneficiary.***

6. Member States shall annually assess the quality of the geo-spatial application system in accordance with the methodology set up at Union level.

Where the assessment reveals deficiencies in the system, Member States shall adopt appropriate remedial actions or, failing that, shall be requested by the Commission to set up an action plan in accordance with Article ***42.***

An assessment report and, where appropriate, the remedial actions and the timetable for their implementation shall be submitted to the Commission by 15 February following the calendar year concerned.

Article ***70***

Area monitoring system

1. Member States shall set up and operate an area monitoring system***, which shall be operational from 1 January 2023. If the full deployment of the system from that date is not feasible due to technical limitations, Member States may choose to set up and start the operation of such a system gradually, providing information for a limited number of interventions only. However, by 1 January 2024, an area monitoring system in all Member States shall be fully operational***.

2. Member States shall annually assess the quality of the area monitoring system in accordance with the methodology set up at Union level.

   Where the assessment reveals deficiencies in the system, Member States shall adopt appropriate remedial actions or, failing that, shall be requested ***by the Commission*** to set up an action plan in accordance with Article ***42.***

   An assessment report and, where appropriate, the remedial actions and the timetable for their implementation shall be submitted to the Commission by 15 February following the calendar year concerned.

Article ***71***

System for the identification of beneficiaries

The system for recording the identity of each beneficiary of the interventions and measures referred to in Article ***65***(2) shall guarantee that all applications submitted by the same beneficiary can be identified as such.

Article ***72***

Control and penalty system

Member States shall set up a control and penalty system referred to in Article ***66(1), point (e). Member States, through the paying agencies or the bodies delegated by them, shall annually carry out administrative checks on the aid application and payment claims to verify legality and regularity in accordance with Article 59(1), point (a). Those checks shall be supplemented by on-the-spot checks, which may be executed remotely with the use of technology.***

Article *73*

System for the identification and registration of payment entitlements

The system for the identification and registration of payment entitlements shall allow for verification of the entitlements with the applications and the identification system for agricultural parcels.

Article *74*

Delegated powers ***of the Commission relating to the integrated system***

The Commission is empowered to adopt delegated acts in accordance with Article ***102 which are necessary to ensure that the integrated system provided for in this Chapter is implemented in an efficient, coherent and non-discriminatory way which protects the financial interests of the Union,*** supplementing this Regulation with:

(a) ▌rules on the quality assessment referred to in Articles ***68, 69*** and ***70***;

(b) ▌rules on the identification system for agricultural parcels, the system for the identification of beneficiaries and the system for the identification and registration of payment entitlements referred to in Articles ***68, 71*** and ***73.***

Article ***75***

Implementing powers relating to Articles 68, 69 and 70

The Commission may adopt implementing acts laying down rules on:

(a) the form and content of, and arrangements for transmitting or making available to the Commission:

(i) the assessment reports on the quality of the identification system for agricultural parcels, of the geo-spatial application system and of the area monitoring system;

(ii) the remedial actions referred to in Articles ***68, 69*** and ***70***;

(b) basic features of, and rules on, the ***aid*** application system under Article 69 and the area monitoring system referred to in Article ***70, including parameters of the gradual increase of the number of interventions under the area monitoring system.***

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

CHAPTER III

Scrutiny of transactions

Article ***76***

Scope and definitions relating to this Chapter

1. This Chapter lays down specific rules on the scrutiny of the commercial documents of entities receiving or making payments relating directly or indirectly to the system of financing by the EAGF or representatives of those entities ('undertakings') in order to ascertain whether transactions forming part of the system of financing by the EAGF have actually been carried out and have been executed correctly.

2. This Chapter shall not apply to interventions covered by the integrated system referred to in Chapter II of this Title and by ***Title III,*** Chapter III***,*** of Regulation (EU) 2021/…[+].

The Commission is empowered to adopt delegated acts in accordance with Article ***102*** supplementing this Regulation with a list of interventions which, due to their design and control requirements, are unsuited for additional ex-post controls by way of scrutiny of commercial documents and, therefore, are not to be subject to such scrutiny under this Chapter.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

3. For the purposes of this Chapter, the following definitions apply:

(a) "commercial document" means all books, registers, vouchers and supporting documents, accounts, production and quality records, correspondence relating to the undertaking's business activity, and commercial data, in whatever form they may take, including electronically stored data, in so far as those documents or data relate directly or indirectly to the transactions referred to in paragraph 1;

(b) "third party" means any natural or legal person directly or indirectly connected with transactions carried out within the financing system by the EAGF.

Article *77*

Scrutiny by Member States

1. Member States shall carry out systematic scrutiny of the commercial documents of undertakings taking account of the nature of the transactions to be scrutinised. Member States shall ensure that the selection of undertakings for scrutiny gives the best possible assurance of the effectiveness of the measures for preventing and detecting irregularities. The selection shall take account, inter alia, of the financial importance of the undertakings in that system and of other risk factors.

2. In appropriate cases, the scrutiny provided for in paragraph 1 of this Article shall be extended to natural and legal persons with whom undertakings are associated and to such other natural or legal persons as may be relevant for the pursuit of the objectives set out in Article ***78.***

3. The body or bodies responsible for the application of this Chapter shall be organised in such a way as to be independent of the departments or branches of departments responsible for the payments and the checks carried out prior to payment.

4. Undertakings for which the sum of the receipts or payments amounted to less than EUR 40 000 shall be scrutinised in accordance with this Chapter only for specific reasons to be indicated by the Member States in their annual control plan referred to in Article 80(1).

5. The scrutiny carried out pursuant to this Chapter shall not prejudice the checks undertaken pursuant to Articles ***49*** and ***50.***

Article ***78***

Cross-checks

1. The accuracy of primary data under scrutiny shall be verified by a number of cross-checks, including, where necessary, the commercial documents of third parties, appropriate to the degree of risk presented, including:

   (a) comparisons with the commercial documents of suppliers, customers, carriers and other third parties;

   (b) physical checks, where appropriate, upon the quantity and nature of stocks;

   (c) comparison with the records of financial flows leading to or consequent upon the transactions carried out within the financing system by the EAGF;

   (d) checks, in relation to bookkeeping, or records of financial movements showing, at the time of the scrutiny, that the documents held by the paying agency by way of justification for the payment of aid to the beneficiary are accurate.

2. Where undertakings are required to keep particular book records of stock in accordance with Union or national law, scrutiny of those records shall, in appropriate cases, include a comparison with the commercial documents and, where appropriate, with the actual quantities in stock.

3. In the selection of transactions to be checked, full account shall be taken of the degree of risk presented.

4. The persons responsible for the undertaking, or a third party, shall ensure that all commercial documents and additional information are supplied to the officials responsible for the scrutiny or to the persons authorised to carry it out on their behalf. Electronically stored data shall be provided on an appropriate data support medium.

5. The officials responsible for the scrutiny or the persons authorised to carry it out on their behalf may require that extracts or copies of the documents referred to in paragraph 1 be supplied to them.

▌

Article ***79***

Mutual assistance

▌Member States shall assist each other up***on request*** for the purpose of carrying out the scrutiny provided for in this Chapter in the following cases:

(a) where an undertaking or third party is established in a Member State other than that in which payment of the amount in question has or should have been made or received;

(b) where an undertaking or third party is established in a Member State other than that in which the documents and information required for scrutiny are to be found.

▌

Article ***80***

Planning and reporting

1. Member States shall draw up ***control plans*** for scrutiny to be carried out pursuant to Article *77* during the subsequent scrutiny period.

2. Each year, before 15 April, Member States shall send to the Commission***:***

(a) their ***control plan*** referred to in paragraph 1 and ▌ the number of undertakings to be scrutinised and their breakdown by sector on the basis of the amounts relating to them;

(b) ***a detailed report on the application of this Chapter for the previous scrutiny period, including the results of any scrutiny carried out under Article 79.***

3. The ***control plans and their amendments*** drawn up by the Member States and sent to the Commission shall be implemented by the Member States if, within eight weeks, the Commission has not informed the Member States of its comments.

▌

Article ***81***

Access to information and scrutiny by the Commission

1. In accordance with the relevant national law, Commission officials shall have access to all documents prepared either with a view to or following the scrutiny organised under this Chapter and to the data held, including those stored in the data-processing systems. Those data shall be provided upon request on an appropriate data support medium.

2. The scrutiny referred to in Article *77* shall be carried out by the officials of the Member States. Officials of the Commission may participate in that scrutiny but they may not exercise the powers of scrutiny accorded to the officials of the Member States. However, they shall have access to the same premises and to the same documents as the officials of the Member States.

▌

3. ▌Without prejudice to the provisions of Regulations (Euratom, EC) No 2988/95, (Euratom, EC) No 2185/96, (EU, Euratom) No 883/2013 and (EU) 2017/1939, where national provisions concerning criminal procedure reserve certain acts for officials specifically designated by the national law, neither the officials of the Commission, nor the officials of the ***requesting*** Member State***,*** shall take part in those acts. In any event, they shall, in particular, not take part in home visits or the formal questioning of persons in the context of the criminal law of the Member State concerned. They shall, however, have access to information thus obtained.

Article ***82***

Implementing powers relating to the scrutiny of transactions

The Commission shall adopt implementing acts laying down rules necessary for the uniform application of this Chapter and in particular relating to the following:

(a) the performance of the scrutiny referred to in Article *77* as regards the selection of undertakings, rate and the timescale for the scrutiny;

(b) ***the performance of the mutual assistance referred to in Article 79;***

▌

(*c*) ▌ the content of reports referred to in Article ***80(2), point (b),*** and any other notification needed under this Chapter.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

CHAPTER IV

Control system and administrative penalties in relation to conditionality

Article ***83***

Control system for conditionality

1. Member States shall set up a ▌ system ***in order*** to ***verify*** that ***the following categories of*** beneficiary ***comply with*** the ***obligations*** laid down in ***Title III, Chapter I, Section 2,*** of Regulation (EU) 2021/…[+]***:***

(a) beneficiaries receiving direct payments under Title III, Chapter II, of Regulation (EU) 2021/…[+];

(b) beneficiaries receiving annual payments in accordance with Articles 70, 71 and 72 of Regulation (EU) 2021/…[+];

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(c) beneficiaries receiving support in accordance with Chapter IV of Regulation (EU) No 228/2013 or ***Chapter IV of Regulation (EU) No 229/2013.***

2. Member States applying Article 28 of Regulation (EU) 2021/…[+] may set up a simplified control system:

(a) for beneficiaries receiving payments under Article 28 of Regulation (EU) 2021/…[+]; or

(b) for small farmers, as determined by Member States pursuant to Article 28 of Regulation (EU) 2021/…[+], not applying for such payments.

Where a Member State does not apply Article 28 of Regulation (EU) 2021/…[+], it may set up a simplified control system for farmers with a maximum size of holding not exceeding 5 hectares of agricultural area declared in accordance with Article 69(1) of this Regulation.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

3. Member States may make use of their existing control systems and administration to ensure compliance with the rules on conditionality.

Those systems shall be compatible with the control ***systems*** referred to in paragraphs 1 and 2.

4. Member States shall conduct a yearly review of the control ***systems*** referred to in ***paragraphs*** 1 and 2 in light of the results achieved.

5. For the purposes of this Chapter, the following definitions apply:

(a) ***'***requirement***'*** means each individual statutory management requirement under Union law referred to in Article ***12*** of Regulation (EU) 2021/…[+] within a given ***legal*** act, differing in substance from any other requirements of the same ***legal*** act;

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(b) ***'legal*** act***'*** means each of the individual directives and regulations referred to in Article ***12*** of Regulation (EU) 2021/…[+]***;***

(c) 'reoccurrence of non-compliance' means non-compliance with the same requirement or standard more than once within a consecutive period of three calendar years, provided that the beneficiary has been informed of previous non-compliance and, where relevant, has had the possibility to take the necessary measures to remedy that previous non-compliance.

6. In ***order to comply with*** their control ***obligations laid down in paragraphs 1 to 4,*** Member States:

(a) shall include on-the-spot checks to verify the compliance of beneficiaries with the obligations laid down in ▌Title III***, Chapter I, Section 2,*** of Regulation (EU) 2021/…[+];

(b) may decide, depending on the requirements, standards, ***legal*** acts or areas of conditionality in question, to use the checks***, including administrative checks,*** carried out under the control systems applicable to the respective requirement, standard, ***legal*** act or area of conditionality, provided the effectiveness of these checks is at least equal to the on-the-spot checks referred to in point (a);

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(c) may, where appropriate, make use of remote sensing or the area monitoring system ***or other relevant technologies assisting them*** to carry out the on-the-spot checks referred to in point (a);

(d) ***shall*** establish the control sample for the on-the-spot checks referred to in point (a) to be carried out each year on the basis of a risk analysis ***that:***

(i) takes into account, and applies weighting factors to, farm structure, the inherent risk of non-compliance and, where applicable, participation of beneficiaries in the farm advisory services as referred to in Article 15 of Regulation (EU) 2021/…[+],

(ii) includes a random component***,*** and

(iii) provides the control sample to cover at least 1 % of ***the*** beneficiaries ***listed in paragraph 1 of this Article;***

(e) as regards the obligations of conditionality in relation to Council Directive 96/22/EC[41], shall consider the application of a specific sampling level of monitoring plans to fulfil the requirement of the minimum rate laid down in point (d) of this paragraph;

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

[41] ***Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of ß-agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC (OJ L 125, 23.5.1996, p. 3).***

(f) ***may decide, when using the simplified control system referred to in paragraph 2, to exclude from the on-the-spot checks referred to in point (a) of this paragraph the verification of compliance with the obligations referred in that point, where it can be demonstrated that cases of non-compliance by the beneficiaries concerned could not have significant consequences for the achievement of the objectives of the legal acts and standards concerned***.

Article ***84***

System of administrative penalties for conditionality

1. Member States shall set up a system providing for the application of administrative penalties to beneficiaries referred to in Article ***83(1)*** of this Regulation who do not comply, at any time in the calendar year concerned, with the obligations laid down in ▌ Title III***,*** ***Chapter I, Section 2,*** of ▌ Regulation ***(EU) 2021/…***[+].

The administrative penalties referred to in the first subparagraph shall only apply where the non-compliance is the result of an act or omission directly attributable to the beneficiary concerned, and where one or both of the following conditions are met:

(a) the non-compliance is related to the agricultural activity of the beneficiary;

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(b) the ***non-compliance concerns*** the holding ***as defined in Article 3, point (2), of Regulation (EU) 2021/…[+] or other areas managed by the beneficiary situated within the territory of the same Member State***.

With regard to forest areas, however, the administrative penalties referred to in the first subparagraph shall not apply where no support is claimed for the area concerned in accordance with Articles ***70*** and ***71*** of Regulation (EU) 2021/…[+].

2. In their system of administrative penalties referred to in paragraph 1, Member States:

(a) shall include rules on the application of administrative penalties in cases where the ***agricultural land, or an agricultural holding, or part thereof,*** is transferred during the calendar year or the years concerned; those rules shall be based on a fair and equitable attribution of the liability for non-compliance among transferors and transferees***;***

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(b) may decide, notwithstanding paragraph 1, not to apply an administrative penalty to a beneficiary per a calendar year when the amount of the penalty is EUR 100 or less; however, the ***beneficiary shall be informed about the*** finding of the non-compliance and about the obligation to take remedial action ***for the future***;

(c) shall provide that no administrative penalty be imposed if:

(i) the non-compliance is due to force majeure or exceptional circumstances in accordance with Article 3,

(ii) the non-compliance is due to an order from a public authority.

For the purposes of the first subparagraph, point (a), 'transfer' means any type of transaction whereby the agricultural land, ***or the agricultural holding, or part thereof,*** ceases to be at the disposal of the transferor***.***

3. The application of an administrative penalty shall not affect the legality and regularity of the expenditure to which it applies.

Article 85

Application and calculation of the administrative penalties

1. The administrative penalties referred to in Article 84 shall be applied by means of reduction or exclusion of the total amount of the payments listed in Article 83(1) granted or to be granted to the beneficiary concerned in respect of aid applications that the beneficiary has submitted or will submit in the course of the calendar year of the finding of the non-compliance. The reductions or exclusions shall be calculated on the basis of the payments granted or to be granted in the calendar year in which the non-compliance occurred. However, where it is not possible to determine the calendar year in which the non-compliance occurred, the reductions or exclusions shall be calculated on the basis of the payments granted or to be granted in the calendar year of the finding of the non-compliance.

For the calculation of those reductions and exclusions, account shall be taken of the severity, extent, permanence or reoccurrence and intentionality of the non-compliance detected. The administrative penalties imposed shall be effective, proportionate and dissuasive.

The administrative penalties shall be based on the controls carried out in accordance with Article 83(6).

2. The reduction shall, as a general rule, be 3 % of the total amount of the payments referred to in paragraph 1.

3. Where the non-compliance has no or only insignificant consequences for the achievement of the objective of the standard or requirement concerned, no administrative penalty shall be applied.

Member States shall set up an awareness mechanism to ensure that beneficiaries are informed about the non-compliance detected and possible remedial actions to be taken. That mechanism shall also include the specific farm advisory services referred to in Article 15 of Regulation (EU) 2021/...[+], participation at which may be made mandatory for the beneficiaries concerned.

4. Where a Member State uses the area monitoring system referred to in Article 66(1), point (c), to detect cases of non-compliance, it may decide to apply a lower percentage reduction than that provided for in paragraph 2 of this Article.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

5. Where the non-compliance has grave consequences for the achievement of the objective of the standard or requirement concerned or constitutes a direct risk to public or animal health, a higher percentage reduction than that provided for in paragraph 2 shall be applied.

6. Where the same non-compliance persists or reoccurs once within three consecutive calendar years, the percentage reduction shall, as a general rule, be 10 % of the total amount of the payments referred to in paragraph 1. Further reoccurrences of the same non-compliance without justified reason by the beneficiary shall be considered to be cases of intentional non-compliance.

In the case of intentional non-compliance, the percentage reduction shall be at least 15 % of the total amount of the payments referred to in paragraph 1.

7. In order to ensure a level playing field for Member States and the effectiveness, proportionality and dissuasive effect of the administrative penalties under this Chapter, the Commission is empowered to adopt delegated acts in accordance with Article 102 supplementing this Regulation with detailed rules on the application and calculation of those penalties.

Article 86

Amounts resulting from the administrative penalties on conditionality

Member States may retain 25 % of the amounts resulting from the reductions and exclusions referred to in Article 85.

CHAPTER V

Control system and administrative penalties in relation to social conditionality

Article 87

Control system for social conditionality

1. Member States shall set up a system providing for the application of administrative penalties to beneficiaries referred to in Article 14 of Regulation (EU) 2021/...[+] who do not comply with the rules on social conditionality listed in Annex IV to that Regulation.

To that end, Member States shall make use of their applicable control and enforcement systems in the field of social and employment legislation and applicable labour standards to ensure that beneficiaries of the aid referred to in Article 14 of Regulation (EU) 2021/…[+], in Chapter IV of Regulation (EU) No 228/2013 or in Chapter IV of Regulation (EU) No 229/2013 comply with the obligations referred to in Annex IV to Regulation (EU) 2021/…[+].

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

2. Member States shall ensure a clear separation of responsibilities between the authorities or bodies responsible for the enforcement of social and employment legislation and applicable labour standards on the one hand, and the paying agencies on the other, the role of the paying agencies being the execution of payments and the application of penalties under the social conditionality mechanism.

Article 88

System of administrative penalties for social conditionality

1. Under the system referred to in Article 87(1), first subparagraph, the paying agency shall be notified at least once a year of cases of non-compliance where enforceable decisions in that respect have been made by the authorities or bodies referred to in Article 87(2). That notification shall include an assessment and grading of the severity, extent, permanence or reoccurrence and intentionality of the non-compliance concerned. Member States may make use of any applicable national grading system of labour sanctions in order to carry out such assessment. The notification to the paying agency shall respect the internal organisation, tasks and procedures of the authorities and bodies referred to in Article 87(2).

The paying agency shall only be notified where the non-compliance is the result of an act or omission directly attributable to the beneficiary concerned, and where one or both of the following conditions are met:

(a) the non-compliance is related to the agricultural activity of the beneficiary;

(b) the non-compliance concerns the holding as defined in Article 3, point (2), of Regulation (EU) 2021/…[+] or other areas managed by the beneficiary situated within the territory of the same Member State.

2. In their systems of administrative penalties referred to in Article 87(1), Member States:

(a) may decide not to apply an administrative penalty to a beneficiary per a calendar year when the amount of the penalty is EUR 100 or less; however, the beneficiary shall be informed about the finding of the non-compliance and about the obligation to take remedial action for the future;

(b) shall provide that no administrative penalty be imposed if:

(i) the non-compliance is due to force majeure,

(ii) the non-compliance is due to ***an order from a public authority.***

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

3. The application of an administrative penalty shall not affect the legality and regularity of the expenditure to which it applies.

Article ***89***

Application and calculation of the administrative penalty

1. The administrative penalties ▌ shall be applied by means of reduction ▌ or exclusion of the total amount of the payments listed in ***Article 83(1)*** granted or to be granted to the beneficiary concerned in respect of aid applications ***that the beneficiary*** has submitted or will submit in the course of the calendar year of the finding of the non-compliance. ***The reductions or exclusions shall be calculated on the basis of the payments granted or to be granted in the calendar year in which the non-compliance occurred. However, where it is not possible to determine the calendar year in which the non-compliance occurred, the reductions or exclusions shall be calculated on the basis of the payments granted or to be granted in the calendar year of the finding of the non-compliance.***

For the calculation of those reductions and exclusions, account shall be taken of the severity, extent, permanence ***or*** reoccurrence ***and*** intentionality of the non-compliance determined***, in line with the assessment of the authorities or bodies referred to in Article 87(2)***. The administrative penalties imposed shall be ***effective,*** proportionate and dissuasive***.***

The relevant provisions of Article 85(2), (5) and (6) shall apply mutatis mutandis to the application and calculation of the administrative penalties.

2. ▌In order to ensure a level playing field for Member States and the effectiveness***,*** ***proportionality*** and dissuasive effect of the ***administrative penalties under this Chapter***, the Commission ***is*** empowered to adopt delegated acts in accordance with Article ***102*** supplementing this Regulation with ***detailed*** rules on the application and calculation of those penalties.

▌

TITLE V

COMMON PROVISIONS

CHAPTER I

Transmission of information

Article ***90***

Communication of information

1. In addition to their communication obligations pursuant to Regulation (EU) 2021/…[+], Member States shall send to the Commission the following information, declarations and documents:

(a) for accredited paying agencies and designated and accredited coordinating bodies:

(i) their accreditation and, where relevant, designation document,

(ii) their function (accredited paying agency or designated and accredited coordinating body),

(iii) where relevant, the withdrawal of their accreditation;

(b) for certification bodies:

(i) their name,

(ii) their address,

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

(c) for measures relating to operations financed by the EAGF and EAFRD:

(i) declarations of expenditure, which also act as payment requests, signed by the accredited paying agency or the designated and accredited coordinating body and accompanied by the requisite information,

(ii) with regard to the EAGF, estimates of their financial requirements, and, with regard to the EAFRD, an update of estimated declarations of expenditure which will be submitted during the year and estimated declarations of expenditure in respect of the following financial year,

(iii) the management declaration and the annual accounts of the accredited paying agencies.

▌

2. Member States shall inform the Commission regularly of the application of the integrated system referred to in ***Title IV,*** Chapter II▌. The Commission shall organise exchanges of views on this subject with the Member States.

Article ***91***

Confidentiality

1. Member States and the Commission shall take all necessary steps to ensure the confidentiality of the information communicated or obtained under inspection and clearance of accounts measures implemented under this Regulation.

   The rules laid down in Article 8 of Regulation (Euratom, EC) No 2185/96 shall apply to that information.

2. Without prejudice to national provisions relating to legal proceedings, information collected in the course of scrutiny as provided for in ***Title IV,*** Chapter III**,** shall be protected by professional secrecy. It shall not be communicated to any persons other than those who, by reason of their duties in the Member States or in the institutions of the Union, are required to have knowledge thereof for the purposes of performing those duties.

Article ***92***

Implementing powers relating to transmission of information

The Commission may adopt implementing acts laying down rules on:

(a) the form, content, intervals, deadlines and arrangements for transmitting or making available to the Commission:

(i) declarations of expenditure and estimates of expenditure and their updates, including assigned revenue,

(ii) management declaration and annual accounts of the paying agencies,

(iii) the account certification reports,

(iv) the names and particulars of accredited paying agencies, designated and accredited coordinating bodies and designated certification bodies,

(v) arrangements for taking account of, and paying, expenditure financed by the EAGF and EAFRD,

(vi) notifications of financial adjustments made by Member States in connection with interventions for rural development,

(vii) information on the measures taken pursuant to Article ***59***;

(b) the arrangements governing exchanges of information and documents between the Commission and the Member States, and the implementation of information systems, including the type, format and content of data to be processed by those systems and the corresponding data storage rules;

(c) the notifications to the Commission by Member States of information, documents, statistics and reports, and the deadlines and methods for such notification.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

CHAPTER II

Use of the euro

Article ***93***

General principles

1. The amounts given in the Commission implementing decisions approving the CAP Strategic Plans, the amounts of commitments and payments by the Commission and the amounts of expenditure attested or certified and amounts in declarations of expenditure by the Member States shall be expressed and paid in euro.

2. The prices and amounts fixed in agricultural legislation shall be expressed in euro.

Those prices and amounts shall be granted or collected in euros in the Member States which have adopted the euro and in the national currency in the Member States which have not.

Article ***94***

Exchange rate and operative event

1. The prices and amounts referred to in Article ***93***(2) shall be converted in the Member States which have not adopted the euro into their national currency by means of an exchange rate.

2. The operative event for the exchange rate shall be:

(a) the completion of customs import or export formalities in the case of amounts collected or granted in trade with third countries,

(b) the event whereby the economic objective of the operation is attained in all other cases.

3. Where a direct payment provided for in Regulation (EU) 2021/…[+] is made to a beneficiary in a currency other than the euro, Member States shall convert the amount of aid expressed in euros into the national currency on the basis of their most recent exchange rate set by the European Central Bank (ECB) prior to 1 October of the year for which the aid is granted.

By way of derogation from the first subparagraph, Member States may decide, in duly justified cases, to carry out the conversion on the basis of the average of the exchange rates set by the ECB during the month prior to 1 October of the year for which the aid is granted. Member States that choose that option shall set and publish that average rate before 1 December of that year.

4. As regards the EAGF, when drawing up their declarations of expenditure, Member States which have not adopted the euro shall apply the same exchange rate as that which they used to make payments to beneficiaries or receive revenue, in accordance with this Chapter.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

5. The Commission is empowered to adopt delegated acts in accordance with Article ***102*** supplementing this Regulation with rules on the operative events and the exchange rate to be used. The specific operative event shall be determined taking account of the following criteria:

(a) actual applicability as soon as possible of adjustments to the exchange rate;

(b) similarity of the operative events for analogous operations carried out under the market organisation;

(c) coherence in the operative events for the various prices and amounts relating to the market organisation;

(d) practicability and effectiveness of checks on the application of suitable exchange rates.

6. The Commission is empowered to adopt delegated acts in accordance with Article ***102*** supplementing this Regulation with rules on the exchange rate applicable when declarations of expenditure are drawn up and when public storage operations are recorded in the accounts of the paying agency.

Article ***95***

Safeguard measures and derogations

1. The Commission may adopt implementing acts safeguarding the application of Union law if exceptional monetary practices concerning a national currency are likely to jeopardise it. Those implementing acts may derogate from the existing rules only for a period of time which is strictly necessary. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

   The European Parliament, the Council and the Member States shall be notified forthwith of the measures referred to in the first subparagraph.

2. Where exceptional monetary practices concerning a national currency are likely to jeopardise the application of Union law, the Commission is empowered to adopt delegated acts in accordance with Article ***102*** supplementing this Regulation with derogations from this Chapter in the following cases:

(a) where a Member State uses abnormal exchange techniques such as multiple exchange rates or operates barter agreements;

(b) where Member States have currencies which are not quoted on official foreign exchange markets or where the trend in such currencies is likely to create distortion in trade.

Article ***96***

Use of the euro by Member States that have not adopted the euro

1. If a Member State which has not adopted the euro decides to pay the expenditure resulting from agricultural legislation in euros rather than in its national currency, that Member State shall take measures to ensure that the use of the euro does not provide a systematic advantage compared with the use of national currency.

2. The Member State shall notify the Commission of the planned measures referred to in paragraph 1 before they come into effect. Those measures shall not take effect until the Commission has notified that Member State of its agreement thereto.

CHAPTER III

Reporting

Article ***97***

Annual financial report

By 30 September of each year following the budgetary year, the Commission shall submit to the European Parliament and to the Council a financial report on the administration of the EAGF and EAFRD during the previous budgetary year.

CHAPTER IV

Transparency

Article ***98***

Publication of information relating to beneficiaries

1. Member States shall ensure annual ex-post publication of the beneficiaries of the EAGF and EAFRD ***for the purposes of*** Article ***49***(3) ***and*** (***4***) of Regulation (EU) ***2021/1060*** and ***in accordance with*** paragraphs 2, 3 and 4 of this Article***, including, where applicable, the information on groups in which the beneficiaries participate in accordance with Article 59(4) of this Regulation, as provided to them by those beneficiaries in accordance with Article 59(4) of this Regulation***.

2. Article ***49(3), points (a), (b), (d) to (j) and (l), and Article 49(4***) of Regulation (EU) ***2021/1060*** shall apply in respect of beneficiaries of the EAFRD and the EAGF, where relevant***. The application of Article 49(3), point (e), of that Regulation shall be limited to the purpose of the operation. Article 49***(3)***, point (k),*** of ▌ that Regulation shall ▌ apply to the ***EAFRD***.

3. For the purposes of this Article, the following definitions apply:

(a) "operation" means measure***, sector or type of intervention;***

(b) ***"total cost of the operation" means the amounts of payment corresponding to each measure, sector, or type of intervention financed by the EAGF or the EAFRD received by each beneficiary in the financial year concerned; as regards the payments corresponding to the types of intervention financed by the EAFRD, the amounts to be published correspond to the total public funding, including both the Union and the national contribution;***

(c) "location ***indicator or geolocation for the operation***" means the municipality where the beneficiary is resident or is registered and, where available, the postal code or the part thereof identifying the municipality.

4. Each Member State shall make the information referred to in Article ***49***(3) ***and*** (***4***) of Regulation ***(EU) 2021/1060*** available on a single website. Such information shall remain available for two years from the date of its initial publication.

Member States shall not publish the information referred to in ▌ Article ***49***(3)***, points (a) and (b),*** of ▌ Regulation (EU) ***2021/1060*** if the amount of aid received in one year by a beneficiary is equal to or less ***than*** EUR 1 250.

Article ***99***

Informing beneficiaries of the publication of data concerning them

Member States shall inform the beneficiaries that data concerning them will be made public in accordance with Article ***98*** and that such data may be processed by auditing and investigating bodies of the Union and the Member States for the purposes of protecting the Union's financial interests.

In accordance with the requirements of Regulation (EU) 2016/679, where personal data are concerned, the Member States shall inform the beneficiaries of their rights under that Regulation and of the procedures applicable for exercising those rights.

Article ***100***

Implementing powers relating to transparency

The Commission shall adopt implementing acts laying down rules on:

(a) the form, including the way of presentation by measure***, sector,*** or ***type of*** intervention, and the timescale of the publication provided for in Articles ***98*** and ***99***;

(b) the uniform application of Article ***99***;

(c) the cooperation between the Commission and Member States.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***103***(3).

CHAPTER V

Protection of personal data

Article ***101***

Processing and protection of personal data

1. Without prejudice to Articles ***98, 99 and 100,*** Member States and the Commission shall collect personal data for the purposes of carrying out their respective management, control, audit and monitoring and evaluation obligations under this Regulation and, in particular, those laid down in ***Title II,*** Chapter II***,*** Title ***III***, Chapters III and IV ▌, Title IV and ***Title V,*** Chapter III***,*** and for statistical purposes, and shall not process those data in a way that is incompatible with those purposes.

2. Where personal data are processed for monitoring and evaluation purposes under Regulation (EU) 2021/…[+], and for statistical purposes, they shall be made anonymous ▌.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

3. Personal data shall be processed in accordance with Regulations (EU) 2016/679 and (EU) 2018/1725. In particular, such data shall not be stored in a form which enables data subjects to be identified for longer than is necessary for the purposes for which those data were collected or for which they are further processed, taking into account the minimum retention periods laid down in the applicable Union and national law.

4. Member States shall inform the data subjects that their personal data may be processed by national and Union bodies in accordance with paragraph 1 and that in this respect they enjoy the data protection rights provided by Regulations (EU) 2016/679 and (EU) 2018/1725.

TITLE VI
DELEGATED ACTS AND IMPLEMENTING ACTS

Article ***102***
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in ***Article 11(1), Article 17(5), Article 23(2), Article 38(2), Article 40(3), Article 41(3), Article 44(4) and (5), Article 47(1), Article 52(1), Article 54(4), Article 55(6), Article 60(3), Article 64(3), Article 74, Article 76(2), Article 85(7), Article 89(2), Article 94(5) and (6), Article 95(2) and Article 105*** shall be conferred on the Commission for a period of seven years from ... [the date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in ***Article 11(1), Article 17(5), Article 23(2), Article 38(2), Article 40(3), Article 41(3), Article 44(4) and (5), Article 47(1), Article 52(1), Article 54(4), Article 55(6), Article 60(3), Article 64(3), Article 74, Article 76(2), Article 85(7), Article 89(2), Article 94(5) and (6), Article 95(2) and Article 105*** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to ***Article 11(1), Article 17(5), Article 23(2), Article 38(2), Article 40(3), Article 41(3), Article 44(4) and (5), Article 47(1), Article 52(1), Article 54(4), Article 55(6), Article 60(3), Article 64(3), Article 74, Article 76(2), Article 85(7), Article 89(2), Article 94(5) and (6), Article 95(2) and Article 105*** shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article ***103***

Committee procedure

1. The Commission shall be assisted by a committee, called the Committee on the Agricultural Funds. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

   For the purposes of Articles ▌ 11, ***12,*** 17, ***18, 23, 26, 32,*** 39 to 44, ***47,*** 51 to ***55,*** 58, 59, ***60, 64, 75, 82, 92, 95*** and ***100,*** as regards matters relating to interventions in the form of direct payments, interventions in certain sectors, interventions for rural development and the common organisation of markets, the Commission shall be assisted by the Committee on the Agricultural Funds, the Common Agricultural Policy Committee established by Regulation (EU) 2021/…[+] and the Committee for the Common Organisation of the Agricultural Markets established by Regulation (EU) No 1308/2013, respectively.

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.

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

TITLE VII

FINAL PROVISIONS

Article ***104***

Repeal

1. Regulation (EU) No 1306/2013 is repealed.

However:

(a) ***Article 4(1), point (b),*** Article 5, Article 7(3), Articles 9, ***17, 21 and*** 34, Article 35(4), Articles 36, 37, 38, ***40 to*** 43, 51, 52, 54, ***56, 59, 63, 64, 67, 68, 70 to 75, 77, 91 to 97, 99 and 100, Article 102(2) and Articles*** 110 and 111 of Regulation (EU) No 1306/2013 ▌ continue to apply***:***

(i) in relation to expenditure incurred and payments made for ***support schemes under Regulation (EU) No 1307/2013 in respect of the calendar year 2022 and before,***

(ii) for measures implemented under Regulations (EU) No 228/2013, (EU) No 229/2013, (EU) No 1308/2013 and (EU) No 1144/2014 until 31 December 2022,

(iii) for the aid schemes referred to in Article 5(6), first subparagraph, point (c), and Article 5(7) of Regulation (EU) 2021/... of the European Parliament and of the Council[42+] in relation to expenditure incurred and payments made for operations implemented pursuant to Regulation (EU) No 1308/2013 after 31 December 2022 and until the end of those aid schemes, and

(iv) as regards the EAFRD, in relation to expenditure incurred ***by the beneficiaries*** and payments ***made by the paying agency in the framework of the implementation of*** rural development programmes ***pursuant to*** Regulation (EU) No 1305/2013***;***

(b) Article 69 of Regulation (EU) No 1306/2013 continue to apply in relation to expenditure incurred and payments made for ***support schemes*** pursuant to Regulation (EU) No 1307/2013 and ***in the framework of the implementation of*** rural development programmes approved by the Commission under Regulation (EU) No 1305/2013 and other CAP measures laid down in ***Title II,*** Chapter I***,*** of Regulation (EU) No 1306/2013 implemented before 1 January 2023***;***

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42 Regulation (EU) 2021/… of the European Parliament and of the Council of ... amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products ***and*** (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union (OJ L ...).

+ OJ: Please insert in the text the number of the Regulation in document PE-CONS 66/21 (2018/0218 (COD)) and in the corresponding footnote the number, date of adoption and publication reference of that Regulation.

(c) Article 54(2) of Regulation (EU) No 1306/2013 continue to apply in relation to revenue declared in the framework of the implementation of rural development programmes approved by the Commission under Regulation (EU) No 1305/2013, Regulation (EC) No 1698/2005 and Commission Regulation (EC) No 27/2004[43];

(d) Regulation (EU) No 1306/2013 continue to apply in relation to expenditure relating to legal commitments referred to in Article 155(2) of Regulation (EU) 2021/…[+]. Notwithstanding that, Article 31 of this Regulation shall apply to the expenditure notified to the Commission in accordance with Article 155(2) of Regulation (EU) 2021/…[+], which shall for this purpose be considered to be a type of intervention.

2. References to the repealed Regulation shall be construed as references to this Regulation, to Regulation (EU) 2021/...[+] and to Regulation (EU) No 1308/2013 and shall be read in accordance with the correlation table in the Annex.

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43 ***Commission Regulation (EC) No 27/2004 of 5 January 2004 laying down transitional detailed rules for the application of Council Regulation (EC) No 1257/1999 as regards the financing by the EAGGF Guarantee Section of rural development measures in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (OJ L 5, 9.1.2004, p. 36).***

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

Article ***105***

Transitional measures

The Commission is empowered to adopt delegated acts in accordance with Article ***102 which are necessary to ensure the smooth transition from the arrangements provided for in Regulation (EU) No 1306/2013, as referred to in Article 104 of this Regulation, to those laid down in this Regulation,*** supplementing this Regulation with derogations from, and additions to, the rules provided for in this Regulation.

Article ***106***

Entry into force and application

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

It shall apply from 1 January ***2023.***

▌However, ***Article 16*** shall apply to expenditure effected from 16 October 2022 as regards the EAGF**.**

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

Done at ...,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX

CORRELATION TABLE

Regulation (EU) No 1306/2013	This Regulation	Regulation (EU) 2021/...[+]	Regulation (EU) No 1308/2013
Article 1	Article 1	–	–
Article 2	Articles 2 and 3	–	–
Article 3	Article 4	–	–
Article 4	Article 5	–	–
Article 5	Article 6	–	–
Article 6	Article 7	–	–
Article 7(1), (2) and (3)	Article 9	–	–
Article 7(4) and (5)	Article 10	–	–
Article 7(6)	–	–	–
Article 8	Article 11	–	–
Article 9	Article 12	–	–
Article 10	Article 37, point (a)	–	–
Article 11	Article 44(1)	–	–
Article 12	–	Article 15(1), (2) and (4)	–
Article 13(1)	–	Article 15(3)	–
Article 13(2) and (3)	–	–	–
Article 14	–	–	–
Article 15	–	–	–

[+] OJ: Please insert the number of the Regulation in document PE-CONS 64/21 (2018/0216 (COD)).

Article 16	Article 14	–	–
Article 17	Article 20	–	–
Article 18	Article 21	–	–
Article 19	Article 22	–	–
Article 20	Article 23	–	–
Article 21	Article 24	–	–
Article 22	Article 25	–	–
Article 23	Article 26	–	–
Article 24	Article 15	–	–
Article 25	Article 16	–	–
Article 26	Article 17	–	–
Article 27	Article 18	–	–
Article 28	Article 19	–	–
Article 29	–	–	–
Article 30	Article 36	–	–
Article 31	Article 27	–	–
Article 32	Article 28	–	–
Article 33	Article 29	–	–
Article 34	Article 30	–	–
Article 35	Article 31	–	–
Article 36	Article 32	–	–
Article 37	Article 33	–	–
Article 38	Article 34	–	–
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Statement by the European Parliament on the Common Agricultural Policy implementation and transparency

The new legal framework of the Common Agricultural Policy (CAP) comprises enhanced flexibility for Member States in the design and implementation of national strategic plans (NSPs). This allows for adaptation to local needs while continuing to ensure that general eligibility conditions are complied with by final beneficiaries. The new delivery model, introducing a performance-based approach, also includes a significant transfer of responsibility from the Union level to national administrations in the management and control of the Union's agricultural funds.

The European Parliament considers the interinstitutional agreement reached between the co-legislators to contain the necessary safeguards preventing the risks identified for the correct implementation of Member States' NSPs as approved by the Commission. The European Parliament will monitor closely the implementation of NSPs by Member States as approved by the Commission and will exercise fully its role of supervisor of the work of the Commission granted under the Treaties and as defined in the CAP Regulations.

The European Parliament considers the effective protection of the financial interests of the Union to be ensured by Regulation (EU) 2021/... of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy, including the collection and publication of data on groups that ensure efficient checks on conflicts of interest, irregularities, issues of double funding, and criminal misuse of the funds. With a view to the use of a single data mining tool in the Member States, the European Parliament welcomes the commitment to examine a proposal on its mandatory use in all Member States, following the Commission's report, to be completed by 2025, assessing its use and its interoperability.

Joint statement by the European Parliament and the Commission on annual performance monitoring in the framework of the Common Agricultural Policy

The European Parliament and the Commission recall that, in view of the new delivery model and the performance framework to be established in the Common Agricultural Policy (CAP) for the period 2023-2027, the annual performance reports, annual monitoring and the biennial performance review are of significant importance to uphold the ambitions set out in the CAP Strategic Plans.

In that context, the European Parliament and the Commission agree that it is necessary for the Commission to report annually to the European Parliament, in the Committee on Agriculture and Rural Development, on the progress made in the scope of the annual performance monitoring.

Joint statement by the European Parliament, the Council and the Commission on further measures to protect the Union budget against fraud and irregularities by requiring a generalised application of a single data mining tool in the framework of the Common Agricultural Policy

The Council and the European Parliament commit to examining a proposal on the compulsory use of a data mining tool in the Member States, following the Commission's report by 2025 assessing the use of the single data mining tool and its interoperability with a view to its generalised use by Member States.

Statement by the Commission on certification bodies in the framework of the Common Agricultural Policy

The Commission takes note of the insertion of the new recital 13 into Regulation (EU) 2021/... of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy regarding the communication of information on appointed certification bodies. The Commission receives information from the Member States on the appointment of public and private certification bodies and it keeps an up-to-date register of these bodies for monitoring purposes. The Commission recalls its commitment to communicate annually the list of the appointed certification bodies to the Parliament.

Statement by the Commission on the EAFRD de-commitments in the framework of the Common Agricultural Policy

The Commission confirms that, if there is a risk of de-commitment of EAFRD funding, the relevant services of the Commission shall send a letter to the Member States' authorities to alert them of that risk in sufficient time before the applicable deadline of the automatic de-commitment. The purpose of that letter is to encourage an increase in the absorption of EAFRD funding and to explore with Member States what can be done to that effect.

The Commission endeavours to avoid de-commitments also where specific circumstances apply. To that end, the relevant rules laid down in Regulation (EU) 2021/... of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy to interrupt the period for de-commitments in the event of on-going legal proceedings or administrative appeals will be fully applied. Moreover, in particular, the rule not to apply de-commitments in the event that budget commitments were not used for reasons of *force majeure* seriously affecting the implementation of the CAP Strategic Plans will be fully complied with.

Statement by the Commission on bundling of empowerments in the framework of the Common Agricultural Policy

The Commission recalls its commitment to observe the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. Point 31 of that Agreement states that, on condition that the Commission provides objective justifications based on the substantive link between two or more empowerments contained in a single legislative act, empowerments may be bundled. Consultations in the preparation of delegated acts also serve to indicate which empowerments are considered to be substantially linked.