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COMMISSION IMPLEMENTING REGULATION (EU) 2026/165

of 21 January 2026

amending Implementing Regulation (EU) 2022/128 as regards the annual performance clearance, the multi-annual performance monitoring and the scrutiny of transactions

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013 [1], and in particular Article 12(4), Article 41(1), fourth subparagraph, Article 47(2)(a), Article 53(2), Article 82, point (a) and Article 92(a) (ii) thereof,

Having regard to Regulation (EU) 2025/2649 of the European Parliament and of the Council of 19 December 2025 amending Regulation (EU) 2021/2115 as regards the conditionality system, types of intervention in the form of direct payment, types of intervention in certain sectors and rural development and annual performance reports and Regulation (EU) 2021/2116 as regards suspensions of payments, annual performance clearance and controls and penalties [2], and in particular Article 3(4) thereof,

Whereas:

(1) Commission Implementing Regulation (EU) 2022/128 [3] lays down rules for the application of Regulation (EU) 2021/2116 as regards the annual performance clearance and the multi-annual performance monitoring.

(2) Regulation (EU) 2025/2649 amended Regulation (EU) 2021/2116 as regards the annual performance clearance. The deletion of refences to the annual performance clearance should be reflected in Implementing Regulation (EU) 2022/128.

(3) Article 28 of Implementing Regulation (EU) 2022/128 sets out the procedure for the submission of action plans in relation to the multi-annual performance monitoring. In order to remove ambiguity as to the start date of the implementation deadline for remedial actions proposed in the action plans, paragraph 2 should be amended. In addition, paragraph 5 should be amended to reflect that Member States are to draw up an action plan in line with the templates available in the electronic system for the secure exchange of information called 'SFC2021' referred to in Article 3 of Commission Implementing Regulation (EU) 2021/2289 [4]. It is also appropriate to specify the deadline for submission by Member States of the reports on the implementation of their action plans.

(4) It is also appropriate to provide Member States with greater flexibility to simplify processes and reduce the administrative burden associated with the scrutiny of transactions pursuant to Article 77 of Regulation (EU) 2021/2116. The selection of undertakings to be controlled should continue to be determined by a comprehensive risk analysis covering all measures, resulting directly in the number of undertakings that actually needs to be controlled.

(5) Implementing Regulation (EU) 2022/128 should therefore be amended accordingly.

(1) OJ L 435, 6.12.2021, p. 187, ELI: http://data.europa.eu/eli/reg/2021/2116/oj.
(2) OJ L, 2025/2649, 31.12.2025, ELI: http://data.europa.eu/eli/reg/2025/2649/oj.
(3) Commission Implementing Regulation (EU) 2022/128 of 21 December 2021 laying down rules for the application of Regulation (EU) 2021/2116 of the European Parliament and of the Council on paying agencies and other bodies, financial management, clearance of accounts, checks, securities and transparency (OJ L 20, 31.1.2022, p. 131, ELI: http://data.europa.eu/eli/reg_impl/2022/128/oj).
(4) Commission Implementing Regulation (EU) 2021/2289 of 21 December 2021 laying down rules for the application of Regulation (EU) 2021/2115 of the European Parliament and of the Council on the presentation of the content of the CAP Strategic Plans and on the electronic system for the secure exchange of information (OJ L 458, 22.12.2021, p. 463, ELI: http://data.europa.eu/eli/reg_impl/2021/2289/oj).

(6) The measures provided for in this Regulation are in accordance with the opinion of the Agricultural Funds Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2022/128 is amended as follows:

(1) in Article 5(4), point (c) is replaced by the following:

‘(c) the performance reporting on output indicators and the performance reporting on result indicators for the multiannual performance monitoring referred to in Article 134 of Regulation (EU) 2021/2115, demonstrating that Article 37 of Regulation (EU) 2021/2116 is complied with, was correct’.

(2) in Article 7, paragraph 5 is replaced by the following:

‘5. As regards auditing of the performance reporting system, the certification body shall apply testing of records, databases to verify if reported performance output and result indicators are correctly reported and match the expenditure financed by the Union or objectives of intervention, respectively. The certification body’s work shall also include the verification of the calculation of the indicators.’

(3) Article 13(1) is replaced by the following:

‘1. On the basis of the data sent in accordance with Article 10(1) of this Regulation, the Commission shall decide to make the monthly payments pursuant to Article 21(3) of Regulation (EU) 2021/2116, without prejudice to the corrections which may be made by means of subsequent decisions in accordance with Articles 53 and 55 of that Regulation, and taking into account the reductions and suspensions decided in accordance with Articles 39 to 42 of that Regulation.’

(4) Article 28 is amended as follows:

(a) paragraph 2 is replaced by the following

‘2. For each of the remedial actions the Member State shall set the planned implementation deadline, which shall not be later than 2 years from the time the action plan is accepted by the Commission. The Member State shall also set up progress indicators towards that deadline, which shall be at least every 3 months throughout the duration of the action plan’;

(b) paragraph 5 is replaced by the following:

‘5. Member States shall prepare the action plans using the templates available in the electronic system for the secure exchange of information called ‘SFC 2021’ provided for in Article 3 of Commission Implementing Regulation (EU) 2021/2289 (*) and report on the progress in their implementation within the deadline for the provision of the annual performance report, laid down in Article 9(3) of Regulation (EU) 2021/2116. The action plans shall be submitted by means of the ‘SFC2021’.

(*) Commission Implementing Regulation (EU) 2021/2289 of 21 December 2021 laying down rules for the application of Regulation (EU) 2021/2115 of the European Parliament and of the Council on the presentation of the content of the CAP Strategic Plans and on the electronic system for the secure exchange of information (OJ L 458, 22.12.2021, p. 463, ELI: http://data.europa.eu/eli/reg_impl/2021/2289/oj).’

(5) Article 33(1) is amended as follows:

(a) the introductory sentence is replaced by the following:

‘For the purpose of the clearance of accounts pursuant to Article 53 of Regulation (EU) 2021/2116, each Member State shall send to the Commission:’;

(b) point (b) is replaced by the following:

‘(b) the annual performance report referred to in Article 134 of Regulation (EU) 2021/2115’

(6) Article 36 is deleted;

(7) Article 46 is replaced as follows:

‘1. In relation to each scrutiny period, Member States shall, without prejudice to their obligations laid down in Article 77(1) of Regulation (EU) 2021/2116, select the undertakings to be scrutinised on the basis of a risk analysis for all measures. Member States shall communicate to the Commission the risk analysis as part of the control plan referred in Article 80(1) of that Regulation.

2. The scrutiny period shall run from 1 July to 30 June of the following year.’

(8) Annex II is replaced by the text set out in Annex I to this Regulation.

(9) Part 2.1 of Annex VI is replaced by the table set out in Annex II to this Regulation.

Article 2

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

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

Done at Brussels, 21 January 2026.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

‘*ANNEX II*

Management declaration – coordinating body as referred to in Article 4

I, …, Director of the … Coordinating Body, present the annual performance report for ………… (Member State) for the financial year 16/10/xx to 15/10/xx+1.

I declare, based on my own judgement and on the information at my disposal, including, inter alia, the results of the work of the certification body, that:

— the annual performance report referred to in Article 134 of Regulation (EU) 2021/2115 has been compiled following the accredited procedure and systems in place at the coordinating body and based on the certified data provided by the paying agencies (……………………………… list) in ………………………………… (Member State).

That assurance is, however, subject to the following reservations:

Finally, I confirm that I am not aware of any undisclosed matter, which could be damaging to the financial interest of the Union.

Signature’

ANNEX II

‘ANNEX VI

Part 2. **Control plan**

2.1. ***Overview of the selection***

Population from which the selection is made:	
(C) Total number	
(D) Total number whose receipts or payments, or the sum thereof, were exceeding EUR 350 000	
(E) Total number whose receipts or payments, or the sum thereof, were EUR 350 000 or less, but not less than EUR 40 000	
(F) Total number whose receipts or payments, or the sum thereof, were less than EUR 40 000	
Undertakings proposed for scrutiny:	
(G) Total number	
(H) Total based upon risk analysis (*)	
(I) Total number whose receipts or payments, or the sum thereof, were exceeding EUR 350 000	
(J) Total number whose receipts or payments, or the sum thereof, were EUR 350 000 or less, but not less than EUR 40 000	
(K) Total number whose receipts or payments, or the sum thereof, were less than EUR 40 000	

Note on table:

(*) Undertakings in this category include only those selected through risk analysis and exclude those added randomly and/or manually to the control plan no subject to risk analysis.’