

COMMISSION DELEGATED REGULATION (EU) 2023/1309**of 26 April 2023****amending Delegated Regulation (EU) 2022/127 as regards transitional rules and correcting that Regulation as regards certain provisions for the EAGF and the EAFRD**

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 38(2), Article 47(1), Article 55(6), Article 76(2), Article 94(5) and (6) and Article 105 thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2022/127 ⁽²⁾ supplements Regulation (EU) 2021/2116 with rules on paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro.
- (2) Title IV, Chapter III, of Regulation (EU) 2021/2116 provides for the scrutiny of the transactions of those entities receiving or making payments relating directly or indirectly to the system of financing by the European Agricultural Guarantee Fund (EAGF), 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. Measures that are by their nature unsuited to *ex post* control by way of scrutiny checks of commercial documents, as well as measures that are concerned with payments that are either area-related or unrelated to commercial documents that can be subject to scrutiny should be excluded from the scope of scrutiny of transactions. Pursuant to Article 46 of Commission Implementing Regulation (EU) 2022/128 ⁽³⁾, which lays down that the scrutiny of transactions covers the EAGF financial year preceding the beginning of the period of scrutiny, which runs each year from 1 July to 30 June of the following year, the scrutiny of transactions covers transactions from before the entry into application of Regulation (EU) 2021/2116. In order to ensure a smooth transition from the arrangements provided for in Regulation (EU) No 1306/2013 of the European Parliament and of the Council ⁽⁴⁾, it is appropriate to provide for transitional rules excluding from the scope of scrutiny of transactions those measures previously exempted by Commission Delegated Regulation (EU) No 907/2014 ⁽⁵⁾. Since those measures have never been suited for scrutiny of transactions control, this amendment should apply retroactively from 1 January 2023, the date of application of Delegated Regulation (EU) 2022/127.
- (3) Delegated Regulation (EU) 2022/127 repealed Delegated Regulation (EU) No 907/2014 with effect from 1 January 2023. However, Article 40, second paragraph, of Delegated Regulation (EU) 2022/127 which lists the provisions of Delegated Regulation (EU) No 907/2014 which continue to apply, did not take into account that certain provisions need to continue to apply in relation to the expenditure incurred and payments made for support schemes under

⁽¹⁾ OJ L 435, 6.12.2021, p. 187.

⁽²⁾ Commission Delegated Regulation (EU) 2022/127 of 7 December 2021 supplementing Regulation (EU) 2021/2116 of the European Parliament and of the Council with rules on paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro (OJ L 20, 31.1.2022, p. 95).

⁽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).

⁽⁴⁾ 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⁾ Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro (OJ L 255, 28.8.2014, p. 18).

Regulation (EU) No 1307/2013 of the European Parliament and of the Council ⁽⁶⁾ up to and including the calendar year 2022, to measures implemented under Regulations of the European Parliament and of the Council (EU) No 228/2013 ⁽⁷⁾, (EU) No 229/2013 ⁽⁸⁾, (EU) No 1308/2013 ⁽⁹⁾ and (EU) No 1144/2014 ⁽¹⁰⁾ until 31 December 2022, 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 as regards the implementation of rural development programmes pursuant to Regulation (EU) No 1305/2013 of the European Parliament and of the Council ⁽¹¹⁾. This created a legal gap. Article 40, second paragraph, of Delegated Regulation (EU) 2022/127 should therefore be corrected by adding the provisions concerned to the list. This correction should apply retroactively from 1 January 2023, the date of application of Delegated Regulation (EU) 2022/127.

- (4) Delegated Regulation (EU) 2022/127 should therefore be amended and corrected accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Delegated Regulation (EU) 2022/127

Article 39 of Delegated Regulation (EU) 2022/127 is replaced by the following:

'Article 39

Transitional provisions

1. Where a paying agency, accredited in accordance with Regulation (EU) No 1306/2013, assumes responsibility for expenditure for which it was not previously responsible, it shall be accredited with the new responsibilities before 1 January 2023.
2. The measures listed in Annex VI to Delegated Regulation (EU) No 907/2014 shall not be subject to the system of scrutiny established by Title IV, Chapter III, of Regulation (EU) 2021/2116¹.

Article 2

Correction to Delegated Regulation (EU) 2022/127

In Article 40, second paragraph, of Delegated Regulation (EU) 2022/127, point (a) is replaced by the following:

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- ⁽⁶⁾ Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608).
- ⁽⁷⁾ 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).
- ⁽⁸⁾ 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).
- ⁽⁹⁾ 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).
- ⁽¹⁰⁾ 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).
- ⁽¹¹⁾ Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).

- (a) Article 5, 5a, Article 7(3) and (4), Article 10, Article 11(1), second subparagraph, Article 11(2), Article 12, Article 13 and Article 41(5) of that Delegated Regulation shall continue to apply:
- (i) in relation to expenditure incurred and payments made for support schemes under Regulation (EU) No 1307/2013 of the European Parliament and of the Council (*) in respect of the calendar year 2022 and before;
 - (ii) for measures implemented until 31 December 2022 under Regulations (EU) No 228/2013, (EU) No 229/2013, (EU) No 1308/2013 and (EU) No 1144/2014;
 - (iii) for the aid schemes referred to in Article 5(6), first subparagraph, point (c), and Article 5(7) of Regulation (EU) 2021/2117 of the European Parliament and of the Council (**) 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.

(*) Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608).

(**) Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021 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 435, 6.12.2021, p. 262).

Article 3

Entry into force and application

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

It shall apply from 1 January 2023.

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

Done at Brussels, 26 April 2023.

For the Commission
The President
Ursula VON DER LEYEN