



Brussels, 26.4.2018
C(2018) 2420 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 26.4.2018

amending Delegated Regulation (EU) No 907/2014 as regards non-compliance with payment deadlines and as regards applicable exchange rate for drawing up declarations of expenditure

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Member States are required to comply with payment deadlines for payments to beneficiaries under the Integrated Administration and Control System (IACS) set out in Article 75(1) of Regulation (EU) No 1306/2013. Payments made outside that period are in principle ineligible for Union financing, as provided for in Article 40 of Regulation (EU) No 1306/2013. However, the Commission is empowered to adopt delegated acts to derogate from this rule and make this expenditure eligible, in accordance with the proportionality principle.

The purpose of this delegated act is to set up rules for non-compliance with the payment deadline as regards the European Agricultural Fund for Rural Development (EAFRD).

This delegated act also aims to clarify which exchange rate should be used for each payment and recovery operation by those Member States which do not form part of the euro zone in cases where an operative event has not been laid down in the sectoral agricultural legislation.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

A draft version of this Delegated Act was presented to and discussed with the Member States' representatives in the framework of the Expert Group for horizontal questions concerning the CAP meeting held on 20 October 2017. The Commission heard the experts' views and clarified its approach on progressive reductions for non-compliance with the payment deadline.

In accordance with the Better Regulation Guidelines (SWD(2015) 111 final of 19.5.2015), the draft Delegated Regulation was published in the Better Regulation portal for a four weeks public consultation period, from 08.02.2018 to 08.03.2018.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This delegated act introduces provisions in Delegated Regulation (EU) No 907/2014, as regards rural development IACS measures, for a system to reduce proportionally interim expenditure not complying with the payment deadline. Any expenditure made late and exceeding a threshold of 5% should be reduced by 25% and 60% in the first and second quarters, respectively, following the expiry of the payment deadline. Any payment made later than that and exceeding a threshold of 2% should be reduced by 100%.

It also adds to Article 11(2) provision for an applicable exchange rate in relation to operations where the operative event has not been laid down by the sectoral agricultural legislation. The exchange rate for these operations should be the last-but-one exchange rate established by the European Central Bank before the last month of the period in respect of which the expenditure or assigned revenue is declared.

4. BUDGETARY IMPLICATIONS

The financial impact on the budget, as regards the provisions on the payment deadlines, could occur only as of budgetary year 2020. However, the eventual impact cannot be quantified.

As regards the provisions on the applicable exchange rate, no financial impact on the budget is anticipated.

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008¹, and in particular Article 40 and Article 106(6) thereof,

Whereas:

- (1) Article 75(1) of Regulation (EU) No 1306/2013 provides that payments of support to beneficiaries under the Integrated Administration and Control System (IACS) are to be made by the Member States during a certain time period. Payments made outside that period are ineligible for Union payments, and can therefore not be reimbursed by the Commission, as provided for in Article 40 of Regulation (EU) No 1306/2013. With regard to support granted under the European Agricultural Fund for Rural Development (EAFRD) those payment deadlines will apply from claim year 2019. Specific rules related to payments from EAFRD should therefore be laid down.
- (2) Considering that in some cases EAFRD IACS payments are made by Member States after 30 June due to additional checks by Member States related to contentious claims, appeals and other national legal disputes, in accordance with the principle of proportionality, a fixed margin related to expenditure should be laid down within which no reductions of the payments are to be made for these cases. In addition, once this margin is exceeded, in order to modulate the financial impact in proportion to the delay incurred in payment, provision should be made to empower the Commission to proportionally reduce the Union payments according to the length of delay in payment recorded.
- (3) Article 5 of Commission Delegated Regulation (EU) No 907/2014² provides for rules for the European Agricultural Guarantee Fund (EAGF) on proportional reductions to monthly payments where the expenditure has been made after the expiry of the payment deadline. As regards EAFRD, the declarations of expenditure and reimbursements are made once for each quarter of the year. For reasons of simplicity and efficiency, a single reduction percentage should be applied to late payments reimbursed from EAFRD for each quarter.

¹ OJ L 347, 20.12.2013, p. 549.

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

- (4) Article 11(2) of Delegated Regulation (EU) No 907/2014 provides for the exchange rate to be used by Member States which do not form a part of the euro zone for each payment or recovery operation for the purpose of drawing up their declarations of expenditure. However, the annual declarations of expenditure drawn up by Member States include amounts which do not involve a registration of a payment or a recovery operation in the accounts of the Paying Agency, such as the assigned revenue resulting from financial consequences of non-recovery, as provided for in the first subparagraph of Article 54(2) of Regulation (EU) No 1306/2013. Therefore, the applicable exchange rate for operations other than those specified in Article 11(2) of Delegated Regulation (EU) No 907/2014 should be provided for.
- (5) Delegated Regulation (EU) No 907/2014 should therefore be amended accordingly,
- HAS ADOPTED THIS REGULATION:

Article 1

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

- (1) The title of Article 5 is replaced by the following:

‘Non-Compliance with the latest payment deadline as regards the European Agricultural Guarantee Fund’;

- (2) The following Article 5a is inserted after Article 5:

‘Article 5a

Non-Compliance with the latest payment deadline as regards the European Agricultural Fund for Rural Development

1. As regards the European Agricultural Fund for Rural Development, pursuant to the exceptions referred to in the first paragraph of Article 40 of Regulation (EU) No 1306/2013 and in accordance with the principle of proportionality, expenditure made after the payment deadline shall be eligible for Union payments under the conditions laid down in paragraphs 2 to 6 of this Article.

2. Where expenditure made after the deadline referred to in Article 75(1) of Regulation (EU) No 1306/2013 is equal to the threshold of 5 % or less of the expenditure made before that deadline, no reduction of the interim payments shall be made.

Where expenditure made after the deadline referred to in Article 75(1) of Regulation (EU) No 1306/2013 is above the threshold of 5 %, all further expenditure made late shall be reduced for the periods specified in Article 22(2) of Commission Implementing Regulation (EU) No 908/2014* in accordance with the following rules:

- (a) expenditure made between 1 July and 15 October of the year in which the payment deadline expired shall be reduced by 25 %;
- (b) expenditure made between 16 October and 31 December of the year in which the payment deadline expired shall be reduced by 60 %;
- (c) expenditure made later than 31 December of the year in which the payment deadline expired shall be reduced by 100 %.

3. By way of derogation from paragraph 2, where the threshold referred to in the first subparagraph of that paragraph has not been used in full for payments made in respect of calendar year N no later than 31 December of year N + 1 and the remainder of the threshold exceeds 2 %, that remainder shall be reduced to 2 %.

4. Where exceptional management conditions are encountered for certain measures or where justified reasons are advanced by the Member States, the Commission shall apply either different time scales from those laid down in paragraphs 2 and 3, or lower reductions or apply no reduction at all.

5. Checks on compliance with the payment deadline shall be made once each financial year on expenditure made by 15 October.

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

6. The reductions referred to in this Article shall be applied without prejudice to the subsequent decision on conformity clearance, referred to in Article 52 of Regulation (EU) No 1306/2013.

* Commission Implementing Regulation (EU) No 908/2014 of 6 August 2014 laying down rules for the application of 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, rules on checks, securities and transparency (OJ L 255, 28.8.2014, p. 59).⁷

(3) In Article 11(2), the following subparagraph is added:

‘For operations for which an operative event has not been laid down by the sectoral agricultural legislation, the applicable exchange rate shall be the last-but-one exchange rate established by the European Central Bank before the last month of the period in respect of which the expenditure or assigned revenue is declared.’

Article 2

This Regulation shall enter into force on the twentieth 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, 26.4.2018

For the Commission
The President
Jean-Claude JUNCKER