This text is meant purely as a documentation tool and has no legal effect. The Union's institutions do not assume any liability for its contents. The authentic versions of the relevant acts, including their preambles, are those published in the Official Journal of the European Union and available in EUR-Lex. Those official texts are directly accessible through the links embedded in this document

►B

COMMISSION IMPLEMENTING REGULATION (EU) 2021/725

of 4 May 2021

derogating in respect of the year 2021 from Implementing Regulations (EU) No 809/2014, (EU) No 180/2014, (EU) No 181/2014, (EU) 2017/892, (EU) 2016/1150, (EU) 2018/274, (EU) No 615/2014 and (EU) 2015/1368 as regards certain administrative and on-the-spot checks applicable within the common agricultural policy

(OJ L 155, 5.5.2021, p. 8)

Amended by:

		Official Journal		
		No	page	date
►M1	Commission Implementing Regulation (EU) 2022/1216 of 8 July 2022	L 188	49	15.7.2022

▼B

COMMISSION IMPLEMENTING REGULATION (EU) 2021/725

of 4 May 2021

derogating in respect of the year 2021 from Implementing Regulations (EU) No 809/2014, (EU) No 180/2014, (EU) No 181/2014, (EU) 2017/892, (EU) 2016/1150, (EU) 2018/274, (EU) No 615/2014 and (EU) 2015/1368 as regards certain administrative and on-the-spot checks applicable within the common agricultural policy

CHAPTER I

DEROGATIONS FROM IMPLEMENTING REGULATION (EU) No 809/2014

Article 1

By way of derogation from Articles 24(4), 48(5), 49(1), 52(1), Article 60(2), third subparagraph, and Article 71(3) of Implementing Regulation (EU) No 809/2014, due to the measures put in place to address the pandemic of COVID-19, for checks to be carried out in respect of claim year 2021 or calendar year 2021 respectively, Member States may decide to fully substitute the physical inspections to be carried out under that Regulation, in particular field visits and on-the-spot checks, by the use of photo-interpretation of satellite or aerial ortho-images or the use of new technologies such as geotagged photos or other relevant evidence including documentary evidence provided by the beneficiary at the request of the competent authority, which could permit definitive conclusions to be drawn to the satisfaction of the competent authority.

If the visits to the operation supported or the investment site referred to in Article 48(5) of Implementing Regulation (EU) No 809/2014 cannot be substituted by relevant documentary evidence, Member States shall carry out those visits after the final payment is effected.

Article 2

By way of derogation from Articles 26(4) and 42(1) of Implementing Regulation (EU) No 809/2014, where due to the measures put in place to address the pandemic of COVID-19 Member States are not in a position to carry out on-the-spot checks within the timeframe required by those provisions, and the alternative methods including the use of new technologies cannot provide the necessary evidence, Member States may decide to carry out those checks in respect of claim year 2021 or calendar year 2021 respectively at any time of the year, in so far that they still allow the checking of the eligibility conditions.

Article 3

1. Where due to the measures put in place to address the pandemic of COVID-19, Member States are not in a position to carry out on-the-spot checks in claim year 2021 or calendar year 2021 respectively, in

▼B

accordance with the requirements set out in Articles 30 to 33, 35, Article 40a(1), first subparagraph, point (c), Article 40a(2), point (b), Article 50(1), first subparagraph, Article 50(5), Article 52(2), Article 60(2), third subparagraph, Article 68(1), first subparagraph, and Article 68(4) of Implementing Regulation (EU) No 809/2014, Member States may decide to apply the rules set out in paragraphs 2 to 13 respectively of this Article.

2. By way of derogation from Article 30 of Implementing Regulation (EU) No 809/2014, in claim year 2021, the control rate shall be at least:

(a) 3 % of all beneficiaries applying for the basic payment scheme or the single area payment scheme;

(b) 3 % of all beneficiaries applying for the redistributive payment;

(c) 3 % of all beneficiaries applying for the payment for areas with natural constraints;

(d) 3 % of all beneficiaries applying for the payment for young farmers;

(e) 3 % of all beneficiaries applying for area-related payments under voluntary coupled support;

(f) 3 % of all beneficiaries applying for the payment under the small farmers scheme;

(g) 10 % of the areas declared for the production of hemp;

(h) 3 % of all beneficiaries applying for the crop specific payment for cotton.

Member States that have already decided to reduce the control rates for certain schemes to 3 % in accordance with Article 36 of Implementing Regulation (EU) No 809/2014, may further reduce the percentages set out for those schemes in this paragraph to 1 %.

3. By way of derogation from Article 31 of Implementing Regulation (EU) No 809/2014, in claim year 2021, the control rate shall be at least:

(a) 3 % of all beneficiaries required to observe the agricultural practices beneficial for the climate and the environment;

(b) 1 % of:

(i) either all beneficiaries qualifying for the greening payment who are exempted from both the crop diversification and the ecological focus area obligations by not meeting the thresholds referred to in Articles 44 and 46 of Regulation (EU) No 1307/2013 and who are not concerned by the obligations referred to in Article 45 of that Regulation;

▼B

(ii) or in the years where Article 44 of Commission Delegated Regulation (EU) No 639/2014 ([1]) does not apply in a Member State, the beneficiaries qualifying for the greening payment who are exempted from both the crop diversification and the ecological focus area obligations by not meeting the thresholds referred to in Articles 44 and 46 of Regulation (EU) No 1307/2013 and who are not concerned by the obligation referred to in Article 45(1) of that Regulation;

(c) 3 % of all beneficiaries required to observe the greening practices and using national or regional environmental certification schemes as referred to in Article 43(3), point (b), of Regulation (EU) No 1307/2013.

The control rate referred to in the first subparagraph, point (a), shall, at the same time, cover at least 3 % of all beneficiaries having areas covered with permanent grasslands that are environmentally sensitive in areas covered by Council Directive 92/43/EEC ([2]) or Directive 2009/147/EC of the European Parliament and of the Council ([3]) and further sensitive areas referred to in Article 45(1) of Regulation (EU) No 1307/2013.

4. By way of derogation from Article 32 of Implementing Regulation (EU) No 809/2014, in claim year 2021, the control rate shall be at least:

(a) 3 % of all beneficiaries applying for rural development measures;

(b) 3 % of all collectives submitting a collective claim.

The control rate referred to in the first subparagraph, point (a), for the measures provided for in Articles 28 and 29 of Regulation (EU) No 1305/2013 of the European Parliament and of the Council ([4]), the control rate of 3 % shall be achieved at the level of the individual measure.

5. By way of derogation from Article 33 of Implementing Regulation (EU) No 809/2014, in claim year 2021, the control rate shall be at least 3 % of all beneficiaries applying for animal aid schemes covering at least 3 % of animals.

([1]) Commission Delegated Regulation (EU) No 639/2014 of 11 March 2014 supplementing Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and amending Annex X to that Regulation (OJ L 181, 20.6.2014, p. 1).

([2]) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

([3]) Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

([4]) 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).

▼M1

6. By way of derogation from Article 35 of Implementing Regulation (EU) No 809/2014, Member States may decide not to apply the increase of the control rate that should have been applied in claim year 2021 for the aid schemes and support measures referred to in paragraphs 2 to 5 of this Article.

▼B

7. By way of derogation from Article 40a(1), first subparagraph, point (c), first sentence, of Implementing Regulation (EU) No 809/2014, the relevant checks relating to the eligibility criteria, commitments and other obligations shall be carried out for at least 3 % of the beneficiaries concerned.

8. By way of derogation from Article 40a(2), point (b), of Implementing Regulation (EU) No 809/2014, the verifications of tetrahydrocannabinol content in hemp shall be made for at least 10 % of the area.

9. By way of derogation from Article 50(1), first subparagraph and Article 60(2), third subparagraph, of Implementing Regulation (EU) No 809/2014, in calendar year 2021, the rate of checks shall be at least 3 %.

▼M1

10. By way of derogation from Article 50(5) of Implementing Regulation (EU) No 809/2014, Member States may decide not to apply the increase of the control rate that should have been applied in calendar year 2021 for the aid schemes and support measures referred to in paragraphs 2 to 5 of this Article.

▼B

11. By way of derogation from Article 52(2) of Implementing Regulation (EU) No 809/2014, the control rate, in calendar year 2021, for *ex post* checks shall be at least 0,6 %.

12. By way of derogation from Article 68(1), first subparagraph, of Implementing Regulation (EU) No 809/2014, the minimum control rate, in claim year 2021, for cross-compliance shall be 0,5 %.

▼M1

13. By way of derogation from Article 68(4) of Implementing Regulation (EU) No 809/2014, Member States may decide not to apply the increase in control rates that should have been applied in claim year 2021.

▼B

Article 4

For Member States applying Articles 1, 2 and 3, the management declaration to be drawn up pursuant to Article 7(3), first subparagraph, point (b), of Regulation (EU) No 1306/2013 shall include for financial years 2021 and 2022 a confirmation that overpayments to beneficiaries were prevented and the recovery of undue amounts has been instigated based on the verification of all necessary information.

▼B

CHAPTER II

DEROGATIONS FROM THE SPECIFIC MEASURES IN FAVOUR OF THE OUTERMOST REGIONS OF THE UNION AND THE SMALLER AEGEAN ISLANDS

SECTION 1

Derogations from Implementing Regulation (EU) No 180/2014

Article 5

1. By way of derogation from Article 16(2) of Implementing Regulation (EU) No 180/2014, where due to the measures put in place to address the pandemic of COVID-19 Member States are not in a position to carry out physical checks in the outermost regions in accordance with the rules set out in that provision, in the year 2021 Member States may decide to organise physical checks in accordance with the rules set out in paragraph 2 of this Article.

2. The physical checks carried out in the outermost region concerned on the import, entry, export and dispatch of agricultural products shall involve a representative sample amounting to at least 3 % of the licences and certificates presented in accordance with Article 9 of Implementing Regulation (EU) No 180/2014.

3. By way of derogation from Article 22 of Implementing Regulation (EU) No 180/2014, where due to the measures put in place to address the pandemic of COVID-19 Member States are not in a position to carry out on-the-spot checks in the outermost regions in accordance with the rules set out in that Article, in the year 2021 Member States may decide to organise on-the-spot checks in accordance with the rules set out in paragraph 4 of this Article.

4. On the basis of a risk analysis carried out in accordance with Article 24(1) of Implementing Regulation (EU) No 180/2014, the competent authorities shall perform on-the-spot checks by sampling at least 3 % of aid applications. The sample shall also represent at least 3 % of the amounts covered by the aid for each action.

5. By way of derogation from Article 16(2) and Article 22 of Implementing Regulation (EU) No 180/2014, where due to the measures put in place to address the pandemic of COVID-19 Member States are not in a position to carry out on-the-spot checks in respect of the specific measures in favour of the outermost regions in accordance with the rules set out in those provisions for the year 2021, Member States may decide:

(a) to substitute on-the-spot checks by the use of new technologies, including geotagged photos, dated photographs, dated drone surveillance reports, videoconferences with the beneficiaries or any relevant documentary evidence that could serve as support when verifying the correct implementation of the measures;

(b) to carry those checks at any time of the year, in so far that they still allow the checking of the eligibility conditions, including after the final payment is effected.

▼M1

6. By way of derogation from Article 59(5) of Regulation (EU) No 1306/2013, Member States may decide not to apply the increase of the control rate that should have been applied in claim year 2021 for the aid schemes and support measures referred to in paragraphs 1 to 5 of this Article.

▼B

SECTION 2

Derogations from Implementing Regulation (EU) No 181/2014

Article 6

1. By way of derogation from Article 13(2) of Implementing Regulation (EU) No 181/2014, where due to the measures put in place to address the pandemic of COVID-19 Greece is not in a position to carry out physical checks in accordance with the rules set out in that provision, in the year 2021 Greece may decide to organise physical checks in accordance with the rules set out in paragraph 2 of this Article.

2. The physical checks carried out in the smaller Aegean islands on the entry of agricultural products shall involve a representative sample amounting to at least 3 % of the certificates presented in accordance with Article 7 of Implementing Regulation (EU) No 181/2014. The physical checks carried out in the smaller Aegean islands on the export or dispatch provided for in Section 3 of that Regulation shall involve a representative sample of at least 3 % of the operations, based on the risk profiles established by Greece.

3. By way of derogation from Article 20 of Implementing Regulation (EU) No 181/2014, where due to the measures put in place to address the pandemic of COVID-19 Greece is not in a position to carry out on-the-spot checks in accordance with the rules set out in that Article, in the year 2021 Greece may decide to organise on-the-spot checks in accordance with the rules set out in paragraph 4 of this Article.

4. On the basis of a risk analysis in accordance with Article 22(1) of Implementing Regulation (EU) No 181/2014, the competent authorities shall perform on-the-spot checks by sampling, for each action, at least 3 % of aid applications. The sample shall also represent at least 3 % of the amounts covered by the aid for each action.

5. By way of derogation from Article 13(2) and Article 20 of Implementing Regulation (EU) No 181/2014, where due to the measures put in place to address the pandemic of COVID-19 Greece is not in a position to carry out on-the-spot checks in respect of the specific measures in favour of the smaller Aegean islands in accordance with the rules set out in those provisions for the year 2021, Greece may decide:

(a) to substitute on-the-spot checks by the use of new technologies, including geotagged photos, dated photographs, dated drone surveillance reports, videoconferences with the beneficiaries or any relevant documentary evidence that could serve as support when verifying the correct implementation of the measures;

▼B

(b) to carry those checks at any time of the year, in so far that they still allow the checking of the eligibility conditions, including after the final payment is effected.

▼M1

6. By way of derogation from Article 59(5) of Regulation (EU) No 1306/2013, Greece may decide not to apply the increase of the control rate that should have been applied in claim year 2021 for the aid schemes and support measures referred to in paragraphs 1 to 5 of this Article.

▼B

CHAPTER III

DEROGATIONS FROM RULES IMPLEMENTING THE COMMON ORGANISATION OF THE MARKETS

SECTION 1

Derogations from Implementing Regulation (EU) 2017/892

Article 7

1. By way of derogation from Article 24 of Implementing Regulation (EU) 2017/892, on-the-spot-checks regarding recognition criteria shall not apply for the year 2021.

2. By way of derogation from Article 27(2) of Implementing Regulation (EU) 2017/892:

(a) in the year 2021, the on-the-spot checks referred to in Article 27 of that Regulation shall relate to a sample representing at least 10 % of the total aid applied for the year 2020;

(b) the rule that each producer organisation or association of producer organisations implementing an operational programme shall be visited at least once every 3 years shall not apply for the on-the-spot-checks conducted in the year 2021.

3. By way of derogation from Article 27(7) of Implementing Regulation (EU) 2017/892, the rule that actions on individual holdings of members of producer organisations covered by the sample referred to in Article 27(2) of that Regulation shall be subject of at least one visit to the place where the action is implemented to verify its execution shall not apply for the on-the-spot-checks conducted in the year 2021. Such visits may be replaced by other types of checks to be defined by Member States, such as geotagged photos, dated photographs, dated drone surveillance reports, administrative checks or videoconferences with the beneficiaries.

4. By way of derogation from Article 29(2) of Implementing Regulation (EU) 2017/892, in the year 2021, Member States may check for all withdrawn products, irrespective of their intended destination, a smaller percentage than that laid down in that provision, provided it is not less than 10 % of the quantities concerned during the marketing year of any given producer organisation. The check may take place at the premises of the producer organisation or at the sites of the recipients of the products. In the event that the checks reveal irregularities, Member States shall carry out additional checks. Such checks may be

▼B

replaced by other types of checks to be defined by Member States, such as geotagged photos, dated photographs, dated drone surveillance reports, administrative checks or videoconferences with the beneficiaries.

5. By way of derogation from Article 30(3) of Implementing Regulation (EU) 2017/892, in the year 2021, each check shall include a sample representing at least 3 % of the quantities withdrawn by the producer organisation during the marketing year 2020. Such checks may be replaced by other types of checks to be defined by Member States, such as geotagged photos, dated photographs, dated drone surveillance reports, administrative checks or videoconferences with the beneficiaries.

6. By way of derogation from Article 31(1) and (2) of Implementing Regulation (EU) 2017/892, in the year 2021, the on-the-spot-checks may be replaced by other types of checks to be defined by Member States, such as geotagged photos, dated photographs, dated drone surveillance reports, administrative checks or videoconferences with the beneficiaries.

SECTION 2

Derogations from Implementing Regulation (EU) 2016/1150

Article 8

1. By way of derogation from Articles 32(1) and 42(3) of Implementing Regulation (EU) 2016/1150, during the financial year 2021, where the measures put in place to address the pandemic of COVID-19 prevent Member States from carrying out on–the-spot checks in accordance with those provisions, such checks may be replaced by other types of controls to be defined by Member States, such as dated photographs, dated drone surveillance reports, administrative checks or videoconferences with the beneficiaries, guaranteeing that the rules relating to the support programmes in the wine sector are respected.

2. By way of derogation from Article 43(3) of Implementing Regulation (EU) 2016/1150, during the financial year 2021, where the measures put in place to address the pandemic of COVID-19 prevent Member States from carrying out on–the-spot checks in accordance with that provision, such checks on green harvesting operations shall take place by 15 September 2021.

SECTION 3

Derogations from Implementing Regulation (EU) 2018/274

Article 9

1. By way of derogation from Article 27(3) of Implementing Regulation (EU) 2018/274, where the measures put in place to address the pandemic of COVID-19 prevent Member States during the period of the grape harvest in the year 2021 from collecting and processing fresh grapes to the extent of the number of samples set out in Part II of Annex III to that Regulation, Member States may derogate from that number of samples.

▼B

2. By way of derogation from Article 31(2), point (b), of Implementing Regulation (EU) 2018/274, where the measures put in place to address the pandemic of COVID-19 prevent Member States from carrying out on-the-spot checks in the year 2021 in accordance with that provision, Member States shall carry out such checks on at least 3 % of all wine growers identified in the vineyard register.

3. By way of derogation from Article 31(2), point (c), of Implementing Regulation (EU) 2018/274, Member States may in the year 2021 temporarily suspend systematic on-the-spot checks carried out in areas planted with vines which are not included in any wine grower file, in cases where the measures put in place to address the pandemic of COVID-19 prevent Member States from carrying out such checks.

SECTION 4

Derogation from Implementing Regulation (EU) No 615/2014

Article 10

By way of derogation from Article 6 of Implementing Regulation (EU) No 615/2014, where the measures put in place to address the pandemic of COVID-19 prevent Member States to carry out in due time the on-the-spot checks in calendar year 2021, Member States may decide to partially or fully substitute on-the-spot checks by administrative checks or by the use of relevant evidence, including geotagged photos, video conversations or other evidence in electronic format.

SECTION 5

Derogation from Implementing Regulation (EU) 2015/1368

Article 11

By way of derogation from Article 8(3) of Implementing Regulation (EU) 2015/1368, during apiculture year 2021 Member States may decide to deviate from the 5 % threshold regarding on-the-spot checks of applicants for aid within the framework of their apiculture programme provided that they replace the planned on-the-spot checks by alternative checks via requesting photographs, via video conversations or through any other means that could serve as support when verifying the correct implementation of the measures included in the apiculture programme.

CHAPTER IV

FINAL PROVISIONS

Article 12

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

▼B

Chapters I and II and Chapter III, Sections 3 and 4, shall apply from 1 January 2021.

Chapter III, Sections 1 and 2, shall apply from 16 October 2020.

Chapter III, Section 5, shall apply from 1 August 2020.

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