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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	16 June 2022
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 16.6.2022 amending Regulation (EU) 2021/2116 of the European Parliament and of the Council as regards the payment of advances for certain interventions and support measures provided for in Regulations (EU) 2021/2115 and (EU) No 1308/2013 of the European Parliament and of the Council

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Delegations will find attached document C(2022) 3928 final.

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Encl.: C(2022) 3928 final



Brussels, 16.6.2022  
C(2022) 3928 final

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

**of 16.6.2022**

**amending Regulation (EU) 2021/2116 of the European Parliament and of the Council as regards the payment of advances for certain interventions and support measures provided for in Regulations (EU) 2021/2115 and (EU) No 1308/2013 of the European Parliament and of the Council**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE DELEGATED ACT

Article 44 of 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<sup>1</sup> provides for Member States the possibility to pay advances to beneficiaries of certain CAP support measures. Article 44, paragraph (4), of Regulation (EU) 2021/2116 empowers the Commission to adopt delegated acts amending that Article by adding rules allowing Member States to pay advances as regards the interventions in certain sectors referred to in Title III, Chapter III, of Regulation (EU) 2021/2115<sup>2</sup> and certain measures regulating or supporting agricultural markets laid down in Regulation (EU) No 1308/2013<sup>3</sup>, in order to ensure the coherent and non-discriminatory payment of advances.

With the view to ensure flexibility in terms of financial management and to improve the efficacy of interventions in certain sectors referred to in Title III, Chapter III, of Regulation (EU) 2021/2115 by providing cash flow to the beneficiaries, it is important to allow Member States the possibility to pay advances to beneficiaries. This was already possible under Regulation (EU) No 1308/2013 with regard to producer organisations in the fruit and vegetables sector implementing operational programmes, producer organisations and interbranch organisations in the olive oil and table olives sector implementing national support programmes and wine beneficiaries implementing measures within wine national support programmes.

The use of such advances for those sectors should be rolled over under the Strategic Plan Regulation (EU) 2021/2115. In that context, the rules should be harmonised and extended to all sectors referred to in Article 42 of Regulation (EU) 2021/2115, meaning that the scope for paying advances should also cover apiculture, hops and the sectors referred to in Article 1(2), points (a) to (h), (k), (m), (o) to (t) and (w) of Regulation (EU) No 1308/2013 and the sectors covering products listed in Annex VI to Regulation (EU) 2021/2115.

The aid scheme for the supply of fruit and vegetables and of milk and milk products in educational establishments laid down in Part II, Title I, Chapter II, Section 1, of Regulation (EU) No 1308/2013 of the European Parliament and of the Council<sup>4</sup> does not currently allow Member States to pay advances. In the light of experience gained, and with the view to ensure flexibility in terms of financial management and to prevent cash-flow difficulties for aid applicants, it is appropriate for Member States to have the possibility to pay advances subject to specific conditions laid down pursuant to Article 44(5) of Regulation (EU) 2021/2116. Considering that the administration and implementation of this aid scheme is based on school

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<sup>1</sup> OJ L 435, 6.12.2021, p. 187.

<sup>2</sup> Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 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 435, 6.12.2021, p. 1).

<sup>3</sup> 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).

<sup>4</sup> 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).

years, starting on 1 August each calendar year, the system of advance payments should apply from school year 2023/2024 (1 August 2023).

Based on the empowerment of Article 44(4) of Regulation (EU) 2021/2116, the Commission proposes to amend Article 44 of Regulation (EU) 2021/2116 with the view to including the possibility for Member States to grant advance payments as regards interventions in the sectors listed in Article 42 of Regulation (EU) 2021/2115, the aid scheme laid down in Part II, Title I, Chapter II, Section 1, of Regulation (EU) No 1308/2013 and exceptional measures supporting agricultural markets and with the view to taking the necessary measures to solve specific problems in case of emergency, adopted under Articles 219, 220 and 221 of Regulation (EU) No 1308/2013.

## **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

Consultations, involving experts from all the 27 Member States, have been carried out within the Expert Group for Agricultural Markets established under Regulation (EU) No 1308/2013, in particular during the meeting of 15 February 2022. This meeting allowed for a presentation of the Commission's ideas on the scope of the delegated act and on the necessary modifications of Article 44 of Regulation (EU) 2021/2116, as well as an exchange of views with the experts. The delegated act was then refined taking into account the observations and comments of the experts. Finally, the delegated act was published between 25 April and 23 May 2022 for public consultation on Europa website. Only one contribution was received, with comments not concerning this act, but Delegated Regulation (EU) 2022/127. In addition, partial payments are not covered by this delegated act. Nothing prevents Member States to grant partial payments to sectoral beneficiaries in accordance with national rules.

## **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

This delegated act amends Article 44 of Regulation (EU) 2021/2116 as regards the possibility for Member States to grant advance payments as regards interventions in the sectors listed in Article 42 of Regulation (EU) 2021/2115, the aid scheme in Part II, Title I, Chapter II, Section 1, of Regulation (EU) No 1308/2013 and exceptional measures supporting agricultural markets adopted under in Articles 219, 220 and 221 of Regulation (EU) No 1308/2013.

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

of 16.6.2022

## amending Regulation (EU) 2021/2116 of the European Parliament and of the Council as regards the payment of advances for certain interventions and support measures provided for in Regulations (EU) 2021/2115 and (EU) No 1308/2013 of the European Parliament and of the Council

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<sup>5</sup>, and in particular Article 44(4) thereof,

Whereas:

- (1) Article 44 of Regulation (EU) 2021/2116 provides for the possibility for Member States to pay advances to beneficiaries of certain interventions and other support measures. Regulation (EU) No 1308/2013 of the European Parliament and of the Council<sup>6</sup> already provides for that possibility but only for interventions in the sectors of fruit and vegetables, wine, olive oil and table olive.
- (2) In order to ensure the coherent and non-discriminatory payment of advances, the possibility to pay advances should be extended to all the interventions referred to in Title III, Chapter III, of Regulation (EU) 2021/2115 of the European Parliament and of the Council<sup>7</sup>.
- (3) For that same reason, the possibility for Member States to pay advances should be extended to the aid scheme for the supply of fruit and vegetables and of milk and milk products in educational establishments laid down in Part II, Title I, Chapter II, Section 1, of Regulation (EU) No 1308/2013. The payment of those advances should be subject to the specific conditions laid down pursuant to Article 44(5) of Regulation (EU) 2021/2116. Considering that the administration and implementation of that aid scheme is based on school years, as defined in Article 1(2) of Commission Implementing Regulation (EU) 2017/39<sup>8</sup>, the system of advance payments should apply to aid for school year 2023/2024 and subsequent school years.

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<sup>5</sup> OJ L 435, 6.12.2021, p. 187.

<sup>6</sup> 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).

<sup>7</sup> Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 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 435, 6.12.2021, p. 1).

<sup>8</sup> Commission Implementing Regulation (EU) 2017/39 of 3 November 2016 on rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union

(4) Exceptional measures supporting agricultural markets in accordance with Articles 219 to 221 of Regulation (EU) No 1308/2013 aim at solving specific market problems or disturbances. Those exceptional measures can take the form of extraordinary and temporary Union financial support to the impacted sectors. The current rules do not allow Member States to pay advances of such support. However, experience shows that exceptional market support measures must take immediate effect in order to avoid irremediable market deterioration. It is therefore appropriate to allow Member States to pay advances to beneficiaries of those exceptional market support measures, subject to the specific conditions laid down pursuant to Article 44(5) of Regulation (EU) 2021/2116.

(5) Regulation (EU) 2021/2116 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

In Article 44 of Regulation (EU) 2021/2116, the following paragraphs 3a, 3b and 3c are inserted:

‘3a. Member States may decide to pay advances to beneficiaries of the interventions referred to in Title III, Chapter III, of Regulation (EU) 2021/2115, subject to the specific conditions laid down pursuant to paragraph 5.

3b. Member States may decide to pay advances under the aid scheme laid down in Part II, Title I, Chapter II, Section 1, of Regulation (EU) No 1308/2013 in respect of aid for school year 2023/2024 and subsequent school years, subject to the specific conditions laid down pursuant to paragraph 5.

3c. Member States may decide to pay advances to beneficiaries of measures supporting agricultural markets adopted under Articles 219, 220 and 221 of Regulation (EU) No 1308/2013, subject to the specific conditions laid down pursuant to paragraph 5.’.

#### *Article 2*

This Regulation shall enter into force on the seventh 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, 16.6.2022

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*

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aid for the supply of fruit and vegetables, bananas and milk in educational establishments (OJ L 5, 10.1.2017, p. 1).