

**COMMISSION DELEGATED REGULATION (EU) 2022/126****of 7 December 2021**

supplementing Regulation (EU) 2021/2115 of the European Parliament and of the Council with additional requirements for certain types of intervention specified by Member States in their CAP Strategic Plans for the period 2023 to 2027 under that Regulation as well as rules on the ratio for the good agricultural and environmental condition (GAEC) standard 1

TITLE I

SUBJECT MATTER

*Article 1***Subject matter**

This Regulation supplements Regulation (EU) 2021/2115 with:

- (a) additional requirements for certain types of intervention, specified by Member States in their CAP Strategic Plans covering the period from 1 January 2023 to 31 December 2027:
 - (i) in the form of direct payments for the cultivation of hemp and cotton;
 - (ii) in the agricultural sectors referred to in Article 42 of Regulation (EU) 2021/2115;
 - (iii) for genetic resources and animal welfare in the framework of environmental, climate and other management commitments and for quality schemes in the area of rural development;
- (b) rules on the ratio for the good agricultural and environmental condition (GAEC) standard 1.

TITLE II

ADDITIONAL REQUIREMENTS FOR CERTAIN TYPES OF INTERVENTION IN THE FORM OF DIRECT PAYMENTS

CHAPTER I

Hemp*Article 2***Additional eligibility requirements**

When providing, in their CAP Strategic Plans, the definitions foreseen in Article 4(1) of Regulation (EU) 2021/2115, Member States shall make the granting of payments for the production of hemp conditional upon the use of seeds of hemp varieties which fulfil the following requirements:

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- (a) they are listed in the Common Catalogue of Varieties of Agricultural Plant Species on 15 March of the year in respect of which the payment is granted and published in accordance with Article 17 of Council Directive 2002/53/EC ⁽¹⁾;
- (b) their Δ 9-tetrahydrocannabinol content (hereinafter referred to as 'THC content') did not exceed for 2 consecutive years the limit as laid down in Article 4(4), second subparagraph, of Regulation (EU) 2021/2115;
- (c) they are certified in accordance with Council Directive 2002/57/EC ⁽²⁾ or in accordance with Article 10 of Commission Directive 2008/62/EC ⁽³⁾ in the case of conservation varieties.

*Article 3***Verification of hemp varieties and quantitative determination of THC content**

1. Member States shall establish a verification system for determining the THC content in hemp varieties which allows them to apply the method for the verification of hemp varieties and quantitative determination of the THC content in hemp varieties set out in Annex I.
2. The competent authority of the Member State shall keep the records related to findings on the THC content. Such records shall comprise, for each variety, at least the results in terms of THC content from each sample expressed in percentage to two decimal places, the procedure used, the number of tests carried out, an indication of the point at which the sample was taken and measures taken at national level.
3. If an average of all the samples of a given variety exceeds the THC content laid down in Article 4(4), second subparagraph, of Regulation (EU) 2021/2115, Member States shall use procedure B described in Annex I to this Regulation for the variety concerned in the course of the following claim year. That procedure shall be used in the course of the next claim years unless all the analytical results for the given variety are below the THC content laid down in Article 4(4), second subparagraph, of Regulation (EU) 2021/2115.
4. If for the second year the average of all the samples of a given variety exceeds the THC content laid down in Article 4(4), second subparagraph, of Regulation (EU) 2021/2115, the Member State shall notify the Commission of the name of the variety concerned by 15 January of the following claim year at the latest. Starting from that claim year, the cultivation of the given variety shall not give a right to direct payments in the Member State concerned.

⁽¹⁾ Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species (OJ L 193, 20.7.2002, p. 1).

⁽²⁾ Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants (OJ L 193, 20.7.2002, p. 74).

⁽³⁾ Commission Directive 2008/62/EC of 20 June 2008 providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties (OJ L 162, 21.6.2008, p. 13).

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5. Member States shall ensure that the hemp producers are timely informed about the names of hemp varieties which are ineligible for direct payment in accordance with Article 4(4), second subparagraph, of Regulation (EU) 2021/2115 following a notification pursuant to paragraph 4 of this Article by making the information notified public not later than the date for submitting the single application.

*Article 4***Catch crop**

For the purposes of this Chapter, ‘hemp cultivated as catch crop’ means crop of hemp sown after 30 June of a given year.

*Article 5***Cultivation requirements**

Crops of hemp shall continue to be cultivated under normal growing conditions in accordance with local practice for at least 10 days from the date of the end of flowering so that the checks necessary for the application of this Article can be made.

Hemp cultivated as catch crop shall continue to be cultivated under normal growing conditions in accordance with local practice at least until the end of the vegetation period.

Member States may authorise hemp to be harvested before the end of the 10-day period after the end of flowering, provided that the harvest takes place after flowering has begun and that the inspectors indicate which representative parts of each plot concerned shall continue to be cultivated for at least 10 days following the end of flowering for inspection purposes, in accordance with the method set out in Annex I.

*CHAPTER II***Cotton***Article 6***Authorisation of agricultural land for cotton production**

The Member States referred to in Article 36 of Regulation (EU) 2021/2115 shall establish, in their CAP Strategic Plans, objective criteria for the authorisation of agricultural land pursuant to Article 37(3) of that Regulation.

Those criteria shall be based on one or more of the following:

- (a) the agricultural economy of those regions where cotton is a major crop;
- (b) the soil and climate in the areas in question;
- (c) the management of irrigation water;
- (d) rotation systems and cultivation methods likely to respect the environment.

*Article 7***Authorisation of varieties for sowing**

The Member States referred to in Article 36 of Regulation (EU) 2021/2115 shall set out, in their CAP Strategy Plans, which varieties, registered in the Common Catalogue of Varieties of Agricultural Plant Species provided for in Directive 2002/53/EC and adapted to their market needs, are authorised for sowing.

*Article 8***Additional conditions for receiving the crop-specific payment for cotton**

For the crop-specific payments for cotton referred to in Article 37(1) of Regulation (EU) 2021/2115, the Member States referred to in Article 36 of that Regulation shall set out, in their CAP Strategy Plans, a minimum plant density on the sown area fixed on the basis of the soil and weather conditions and, where appropriate, specific regional characteristics.

*Article 9***Approval of interbranch organisations**

1. The approval of an interbranch organisation in the sense of Article 39(1) of Regulation (EU) 2021/2115 shall be granted by the Member State where the ginners are established and for a period of one year starting in due time before the sowing season of that year, provided that the organisation fulfills the following criteria:

- (a) it covers a total area of at least 4 000 ha that meet authorisation criteria as referred to in Article 6 of this Regulation;
- (b) it has adopted internal operating rules, in particular on membership conditions and fees, in accordance with Union and national rules.

2. Where it is found that an approved interbranch organisation no longer fulfils the criteria for approval provided for in paragraph 1, the Member State that granted the approval shall withdraw the approval, unless the non-compliance is remedied within a deadline to be fixed by the Member State in the withdrawal decision. The competent authority of the responsible Member State shall notify the interbranch organisation of its intention to withdraw an approval, together with the reasons for the withdrawal, in advance. It shall grant the interbranch organisation the opportunity to submit its observations within a period specified in the notification of the planned withdrawal.

Farmers who are members of an approved interbranch organisation whose approval is withdrawn in accordance with the first subparagraph of this paragraph shall not be eligible to receive the increase of the crop-specific payment for cotton pursuant to Article 40(2) of Regulation (EU) 2021/2115.



Article 10

Obligations for farmers producing cotton

1. A farmer shall not be a member of more than one approved interbranch organisation referred to in Article 39(1) of Regulation (EU) 2021/2115.

2. A farmer who is a member of an approved interbranch organisation shall deliver cotton only to a ginner belonging to that same organisation.

3. The participation of farmers in an approved interbranch organisation shall be the result of voluntary membership.

TITLE III

ADDITIONAL REQUIREMENTS FOR CERTAIN TYPES OF INTERVENTION IN THE SECTORS REFERRED TO IN ARTICLE 42 OF REGULATION (EU) 2021/2115

CHAPTER I

Common rules applicable to interventions in the fruit and vegetables sector, in the apiculture sector, in the wine sector, in the hops sector, in the olive oil and table olives sector and in the other sectors referred to in Title III, Chapter III, of Regulation (EU) 2021/2115

Section 1

Common rules on investments, agri-environment-climate related types of intervention, coaching, promotion and communication, mutual funds, replanting, green harvesting and non-harvesting, harvest insurance, market withdrawals and collective storage

Article 11

Investments in tangible and intangible assets

1. When Member States include, in their CAP Strategic Plans, investments in tangible and intangible assets as foreseen in the fruit and vegetables sector, in the apiculture sector, in the wine sector, in the hops sector, in the olive oil and table olives sector in other sectors referred to in Article 42, point (f), of Regulation (EU) 2021/2115, they shall provide for the following:

- (a) the tangible and the intangible assets acquired are used according to the nature, objectives and intended use by the beneficiary, as described in the related interventions of the CAP Strategic Plan and, where relevant, in the approved operational programme;

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- (b) without prejudice to paragraph 10, the tangible and the intangible assets acquired remain both in the property and possession of the beneficiary until the end of the fiscal depreciation period or during a period of at least 5 years to be set by Member States taking into account the nature of the assets. Each of these periods shall be calculated as of the date of the asset acquisition or as of the date on which the asset is put at the disposal of the beneficiary.

However, Member States may provide for a shorter period during which the asset shall remain in the property and possession of the beneficiary, but this period shall not be less than 3 years for the purpose of maintenance of investments or jobs created by micro, small and medium-sized enterprises within the meaning of Commission Recommendation 2003/361/EC ⁽⁴⁾.

The investments in tangible assets referred to in the first subparagraph shall be made at the premises of the beneficiary or, where relevant, at the premises of its producer members or of its subsidiaries complying with the 90 % requirement referred to in Article 31(7) of this Regulation. However, in the apiculture sector, Member States may also provide in their CAP Strategic Plans, for investments in tangible assets made outside the premises of the beneficiary.

Where the investment is made on ground rented under particular national property rules, the requirement of being in the property of the beneficiary may not apply provided the asset have been in the possession of the beneficiary at least for the period required in paragraph (b) of first subparagraph.

2. Member States may provide in their CAP Strategic Plans that support for investments in tangible and intangible assets, including those under leasing contracts, may be financed in one amount or in instalments that were approved, where relevant, in the operational programme or as so specified by Member States in the relevant interventions.

If the period referred to in paragraph 1, first subparagraph, point (b), for a given investment exceeds the length of the operational programme, Member States shall ensure that it may be carried over to a subsequent operational programme.

When Member States provide, in their CAP Strategic Plans, support for investments in tangible and intangible assets, pursuing the agro-environmental-climate related objectives referred to in Articles 46, points (e) and (f), and 57, point (b), of Regulation (EU) 2021/2115, such investments shall pursue one or more of the objectives listed in Article 12(1) of this Regulation.

⁽⁴⁾ Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

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3. Member States may provide, in their CAP Strategic Plans, support for investments in tangible assets consisting of systems which generate energy provided that the amount of energy generated does not exceed the amount of energy that can be used on a yearly basis for the normal activities of the beneficiary.

4. Member States may provide, in their CAP Strategic Plans, support for investments in irrigation provided that:

- (a) percentages for minimum water savings targets are set up, both in terms of potential and effective reduction in water use, to be reached by the beneficiary of support, and subject to the CAP Strategic Plan demonstrating that such water savings targets have been determined taking into account the needs set out in the river basin management plans referred to in Directive 2000/60/EC of the European Parliament and of the Council ⁽⁵⁾;
- (b) a water meter system enabling measurement of water use at the level of the holding or the relevant production unit is in place or is put in place as part of the investment;
- (c) in case of specific investments in irrigation referred to in paragraphs 5 to 8 the conditions laid down in those paragraphs are complied with.

5. Support for investments in the improvement of an existing irrigation installation or element of irrigation infrastructure may be provided under the following conditions:

- (a) the investments are assessed by the beneficiary *ex ante* as showing potential water savings reflecting the technical parameters of the existing installations or infrastructures;
- (b) the investments affect bodies of groundwater or surface water whose status have been identified as less than good in the relevant river basin management plan as provided for in Directive 2000/60/EC for reasons related to water quantity, and an effective reduction in water use will be achieved contributing to the achievement of good status of these water bodies, as laid down in Article 4(1) of that Directive.

The conditions set out in the first subparagraph, points (a) and (b), shall not apply to investments, made in support of improvements of an existing irrigation installation or element of irrigation infrastructure, relating to the creation of a reservoir or to the use of reclaimed water which does not affect a body of groundwater or surface water.

6. Support for investments in irrigation resulting in a net increase of the irrigated area affecting a given body of groundwater or surface water may be provided under the following conditions that:

⁽⁵⁾ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

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- (a) the status of the water body has not been identified as less than good in the relevant river basin management plan for reasons related to water quantity;

- (b) an environmental impact analysis shows that there will be no significant negative environmental impact from the investment; that environmental impact analysis shall be either carried out by or approved by the competent authority.

7. Support for investments in the use of reclaimed water as an alternative water supply may be provided under the condition that the use of such water is compliant with Regulation (EU) 2020/741 of the European Parliament and of the Council ⁽⁶⁾.

8. Support for investments in the creation or expansion of a reservoir for the purpose of irrigation may be provided under the condition that it does not lead to significant negative environmental impact.

9. Member States shall ensure the recovery of the Union financial assistance from the beneficiary, if one of the following situations occurs within the period referred to in paragraph 1, first subparagraph, point (b):

- (a) a cessation of activity of the beneficiary or a transfer to another entity;

- (b) a relocation of a productive activity outside the geographical cultivated area by the beneficiary or, where relevant, its members;

- (c) a change in ownership, in particular where it gives to a firm or a public body an undue advantage; or

- (d) any other significant change affecting the nature, objectives or implementation conditions of the intervention concerned which would result in undermining its original objectives.

In case of non-compliance by the beneficiary with the conditions provided by Member States in their CAP Strategic Plans on the basis of paragraphs 1 to 8 and the first subparagraph of this paragraph, Member States shall ensure the recovery of the Union financial assistance in proportion to the duration of non-compliance.

⁽⁶⁾ Regulation (EU) 2020/741 of the European Parliament and of the Council of 25 May 2020 on minimum requirements for water reuse (OJ L 177, 5.6.2020, p. 32).

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Member States may choose not to recover the Union financial assistance when the beneficiary ceases a productive activity due to a non-fraudulent bankruptcy.

If a producer member leaves its organisation or producer group, Member States shall ensure that the investment or its residual value is recovered by the beneficiary and that its residual value is added to the operational fund.

In duly justified circumstances, Member States may provide that the beneficiary is not required to recover the investment or its residual value.

10. Where the assets, for which investments were supported, are replaced, the residual value of the investments replaced shall be:

- (a) added to the operational fund of the producer organisation; or
- (b) subtracted from the cost of the replacement.

Notwithstanding the first subparagraph, Member States cannot provide in their CAP Strategic Plans the mere replacement of investments by identical assets.

11. Member States shall not provide support for investments specified as interventions in their CAP Strategic Plans, if those interventions receive support pursuant to Article 58(1), first subparagraph, points (h) to (k), of that Regulation.

*Article 12***Interventions related to agri-environment-climate objectives**

1. When Member States include, in their CAP Strategic Plans, interventions pursuing agri-environment-climate objectives in the fruit and vegetables sector, in the apiculture sector, in the wine sector, in the hops sector, in the olive oil and table olives sector or in other sectors referred to in Article 42, point (f), of Regulation (EU) 2021/2115, they shall provide in their CAP Strategic Plans that the interventions covered pursue one of the following aims:

- (a) achieving a reduction in the current use of production inputs, emission of pollutants or waste from the production process;
- (b) achieving the replacement of the use of energy from fossil fuel sources with renewable energy sources;
- (c) achieving a reduction in the environmental risks linked to the use of certain production inputs or to the production of certain residues, including plant protection products, fertilisers, manure or other animal dejections;
- (d) achieving a reduction in water use;

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- (e) being linked to non-productive investments needed to achieve the agri-environment-climate related objectives, in particular where those objectives relate to the protection of habitats and biodiversity;
- (f) achieving an effective and measurable reduction of greenhouse gas emissions or a durable carbon sequestration;
- (g) increasing the resilience of the production to risks linked to climate change, such as soil erosion;
- (h) achieving conservation, sustainable use and development of genetic resources; or
- (i) leading to the protection or an improvement of the environment.

Member States shall ensure that beneficiaries provide evidence of the expected positive contribution to one or more environmental objectives at the moment of the submission for approval of the proposed operational programme, of the intervention or of the amendment of such programme or intervention.

2. The interventions referred to in paragraph 1, shall be made at the premises of the beneficiary or, where relevant, at the premises of its producer members or at the premises of its subsidiaries complying with the 90 % requirement referred to in Article 31(7) of this Regulation. However, in the apiculture sector, Member States may also provide in their CAP Strategic Plans, for such interventions made outside the premises of the beneficiary. The expected benefit and additional impact of the intervention related to agri-environment-climate objectives has to be demonstrated *ex ante* through project specifications or other technical documents to be presented by the beneficiary at the moment of the submission for approval of the operation, operational programme or amendment of such a programme or operation, showing the results that could be obtained through the implementation of the intervention.

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3. When determining the expenditure to be covered, except for investments in tangible and intangible assets, Member States shall take into account the additional costs incurred and income foregone resulting from interventions linked to agri-environment-climate objectives, and the targets set.

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4. Member States shall ensure that beneficiaries implementing interventions related to agri-environment-climate objectives have access to the relevant knowledge and information required to implement such interventions, and that appropriate training is made available for those who require it, as well as access to expertise in order to assist farmers who commit to change their production systems.

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5. Member States shall ensure that a revision clause is provided in the operational programmes for operations implemented under interventions related to agri-environment-climate objectives in the fruit and vegetables sector, in the hops sector, in the olive oil and table olives sector, and in other sectors referred to in Article 42, point (f), of Regulation (EU) 2021/2115, in order to ensure their adjustment in the case of amendments to any relevant mandatory standards, requirements or obligations.

*Article 13***Coaching**

1. When Member States include, in their CAP Strategic Plans, coaching interventions in the fruit and vegetables sector, in the hops sector, in the olive oil and table olives sector, or in other sectors referred to in Article 42, point (f), of Regulation (EU) 2021/2115, they shall provide in their CAP Strategic Plans that the interventions covered pursue one of the following objectives:

- (a) exchanging best practices related to crisis prevention and management interventions helping the beneficiary to benefit from experience with implementation of crisis prevention and risk management interventions;
- (b) promoting the setting-up of new producer organisations, merging existing ones or enabling individual producers to join an existing producer organisation as well as advising producers groups on their way to reach the recognition as producer organisation pursuant to Regulation (EU) No 1308/2013;
- (c) creating networking opportunities for coaching providers and recipients, in particular marketing channels as a means of crisis prevention and management.

2. The coaching provider shall be a producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group. The coaching provider shall benefit from the support for the coaching intervention.

3. The coaching recipient shall be a producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group, the individual producers members or non-members of a producer organisation, their associations or a producer group.

4. All eligible costs related to the coaching activity shall be paid to the coaching provider which includes this intervention in its operational programme.

5. Coaching interventions shall not be outsourced.

▼M1*Article 14***Promotion, communication and marketing**

1. When Member States include, in their CAP Strategic Plans, promotion, communication and marketing interventions in the fruit

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and vegetables sector, in the wine sector, in the hops sector, in the olive oil and table olives sector or in other sectors referred to in Article 42, point (f), of Regulation (EU) 2021/2115, they shall provide in their CAP Strategic Plans that the interventions covered pursue one of the following objectives:

- (a) increasing awareness of the merits of Union agricultural products and of the high standards applicable to their production methods in the Union;
- (b) increasing the competitiveness and consumption of Union agricultural products and certain processed products produced in the Union and raising their profile both inside and outside the Union for sectors other than wine;
- (c) increasing awareness about Union quality schemes both inside and outside the Union;
- (d) increasing the market share of Union agricultural products and certain processed products produced in the Union, specifically focusing on the markets in third countries that have the highest growth potential;
- (e) contributing, where relevant, to restore the normal market conditions in the Union market in the event of serious market disturbance, loss of consumer confidence or other specific problems;
- (f) increasing awareness of sustainable production;
- (g) increasing consumer awareness of brands or trademarks of producer organisations, associations of producer organisations, transnational producer organisations, transnational associations of producer organisation and their subsidiaries within the meaning of Article 31(7) of this Regulation in the fruit and vegetables sector;
- (h) diversifying, opening and consolidating the markets for Union wines in third countries and increasing awareness of the intrinsic qualities of Union wines on those markets. A reference to wine origin and brands may only be used when it complements the promotion, communication and marketing of Union wines in third countries;
- (i) informing consumers about the responsible consumption of wine;
- (j) increasing consumption of fresh or processed fruit and vegetables by improving consumer awareness on healthy diets, nutritious characteristics of the product, its high quality and its safety.

2. Member States shall ensure that promotional material for generic promotion and promotion of quality labels, bears the Union emblem and include the following funding statement: ‘Funded by the European Union’. The Union emblem and the funding statement shall be displayed in accordance with the technical characteristics laid down in Commission Implementing Regulation (EU) No 821/2014 (7).

(7) Commission Implementing Regulation (EU) No 821/2014 of 28 July 2014 laying down rules for the application of Regulation (EU) No 1303/2013 of the European Parliament and of the Council as regards detailed arrangements for the transfer and management of programme contributions, the reporting on financial instruments, technical characteristics of information, communication and visibility measures for operations and the system to record and store data (OJ L 223, 29.7.2014, p. 7).

*Article 15***Mutual funds**

1. When Member States include, in their CAP Strategic Plans, mutual funds interventions in the fruit and vegetables sector, in the hops sector, in the olive oil and table olives sector or in other sectors referred to in Article 42, point (f), of Regulation (EU) 2021/2115, they shall provide the implementing conditions for the administrative cost of setting up, for filling and, where appropriate, the refilling of mutual funds.

2. The eligible expenditure on administrative cost of setting up mutual funds in the fruit and vegetables sector, in the hops sector, in the olive oil and table olives sector and in other sectors referred to in Article 42, point (f), of Regulation (EU) 2021/2115 shall comprise both the Union financial assistance and the contribution from the beneficiary. The amount of the eligible expenditure shall not exceed 20 %, 16 % or 8 % of the contribution of the beneficiary to the capital of the mutual fund in the first, second and third year of its operation, respectively.

3. A beneficiary may receive support for the administrative cost of setting up mutual funds in the fruit and vegetables sector, in the hops sector, in the olive oil and table olives sector and in other sectors referred to in Article 42, point (f), of Regulation (EU) 2021/2115, only once and only within the 3 first years of the operation of the mutual fund.

Where a beneficiary only applies for that support in the second or the third year of operation of the mutual funds, the support shall be 16 % or 8 % of the contribution of the beneficiary to the capital of the mutual fund in the second and third year of its operation, respectively.

4. When Member States include, in their CAP Strategic Plans, mutual funds interventions in the wine sector as referred to in Article 58(1), first subparagraph, point (l), of Regulation (EU) 2021/2115, they shall limit the Union support to administrative cost of setting up mutual funds in the wine sector to:

- (a) 20 % of the producers' contribution to the mutual fund in the first year;
- (b) 16 % of the producers' contribution to the mutual fund in the second year;
- (c) 8 % of the producers' contribution to the mutual fund in the third year.

The support period shall not exceed 3 years.

*Article 16***Replanting of orchards, olive groves or vineyards following mandatory grubbing-up**

1. When Member States include, in their CAP Strategic Plans, interventions in the fruit and vegetables sector, in the olive oil and table olives sector, in the wine sector or in other sectors referred to in Article 42, point (f), of Regulation (EU) 2021/2115, in the form of replanting of orchards, olive groves or vineyards following mandatory grubbing-up for health or phytosanitary reasons or, in the case of orchard and olive groves, to adapt to climate change, they shall ensure that the beneficiaries comply with Regulation (EU) 2016/2031 of the European Parliament and of the Council ⁽⁸⁾ when implementing these interventions.

2. The expenditure for replanting of orchards or olives groves shall not exceed 20 % of the total expenditure under each operational programme or relevant intervention.

*Article 17***Green harvesting and non-harvesting**

1. When Member States include, in their CAP Strategic Plans, interventions in the fruit and vegetables sector, in the wine sector, in the hops sector, in the olive oil and table olives sector or in other sectors referred to in Article 42, point (f), of Regulation (EU) 2021/2115, in the form of ‘green harvesting’ for these sectors and ‘non-harvesting’ for these sectors except for wine, Member States shall ensure that these interventions are additional to and different from normal cultivation practices, and that they concern 100 % of the expected production of the product concerned in a given parcel.

‘Green harvesting’ shall consist of the total harvesting on a given area of unripe non-marketable products which have not been damaged prior to the green harvesting. ‘Non-harvesting’ shall consist of the termination of the current production cycle on the area concerned where the product is well developed and is of sound, fair and of marketable quality.

2. Member States shall ensure that green harvesting interventions are implemented during the growing seasons in advance of the product reaching a marketable stage and shall not be undertaken in respect of the products for which the normal harvest has already begun.

⁽⁸⁾ Regulation (EU) 2016/2031 of the European Parliament and of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC (OJ L 317, 23.11.2016, p. 4).

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3. Member States shall set, in their CAP Strategic Plans, maximum time limits during the production season for the application of the green harvesting interventions for each product subject to such interventions as well as other eligibility conditions for green harvesting and non-harvesting, including varieties and categories of products where relevant.

4. Member States shall exclude financial compensation for non-harvesting interventions undertaken where commercial production has been taken from the area concerned during the normal production cycle.

5. Support for green harvesting shall only cover the products which are physically on the fields and which are actually green harvested. For sectors other than the wine sector, compensation amounts, comprising both the Union financial assistance and contribution from the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group for green harvesting and non-harvesting shall be set by the Member State, per hectare payments, at a level corresponding to not more than 90 % of the maximum support level for market withdrawals, other than free distribution, applicable to the same product.

6. Member States shall provide that the beneficiary has to notify the competent authorities of the Member State in writing or by electronic means in advance of an intention of green harvesting or non-harvesting.

7. Member States shall set in their CAP Strategic Plans:

- (a) detailed provisions on the implementation of those interventions including their content and deadlines, on the amount of compensation to be paid and on the application of the interventions, as well as the list of products eligible under the interventions;
- (b) provisions to ensure that no negative impact on the environment nor any negative phytosanitary consequences results from the implementation of the interventions;
- (c) a prohibition to grant support in the fruit and vegetables sector in the case of green harvesting, if a significant part of the normal harvest has been carried out and, in the case of non-harvesting, if a significant part of the commercial production has already been taken.

8. Member States shall ensure that:

- (a) the area concerned has been well maintained, that no harvest has already taken place, that the product is well developed, not damaged and would in general be sound, fair and of marketable quality;

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- (b) the harvested products are denatured;

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- (c) there is no negative impact on the environment or any negative phytosanitary consequences resulting from the intervention for which the producer organisation is responsible;
- (d) the area of any vine parcel which has undergone green harvesting is not taken into consideration when calculating the yield limits set in the technical specifications of wines with a protected designation of origin or a protected geographical indication;

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- (e) by way of derogation from paragraphs 2 and 4, in the fruit and vegetables sector, where fruit and vegetable plants have a harvesting period exceeding one month, green harvesting might take place after the normal harvest has already begun and non-harvesting might take place even if commercial production has been taken from the area concerned during the normal production cycle. In such cases, the financial compensation shall only compensate for the production that would be harvested in the six weeks following the green harvesting and non-harvesting operation and is not marketed as a result of such operations. Those fruit and vegetable plants shall not be used for further production purposes in the same growing season;
- (f) in the fruit and vegetables sector, except for the case referred to in point (e), green harvesting and non-harvesting interventions cannot apply simultaneously for the same product and the same area in any given year.

*Article 18***Harvest and production insurance**

When Member States include in their CAP Strategic Plans, harvest and production insurance as an intervention in the fruit and vegetables sector, in the hops sector, in the olive oil and table olives sector, or in other sectors referred to in Article 42, point (f), of Regulation (EU) 2021/2115, they may grant additional national financing to support harvest and production insurance actions which are benefiting from the operational fund. The total public support shall not exceed 80 % of the cost of the insurance premiums paid for by producers for insurance against losses.

Harvest and production insurance interventions shall not cover insurance payments which compensate producers for more than 100 % of the income loss suffered, taking into account any compensation the producers obtain from other support or insurance schemes related to the insured risk.

*Article 19***Market withdrawals for destinations other than free distribution**

When Member States include in their CAP Strategic Plans, interventions in the form of ‘market withdrawals for destinations other than free distribution’, they shall ensure the definitive withdrawal from the market of a certain product in a manner that it cannot be reverted to the market for food purposes.

Member States may only provide in their CAP Strategic Plans, interventions in the form of ‘market withdrawal for destinations other than free distribution’ in the fruit and vegetables sector as well as in other sectors referred to in Article 42, point (f), of Regulation (EU) 2021/2115, respectively, and only in respect of perishable products that cannot be durably stored at their normal commercial stage without refrigeration.

Member States shall not provide in their CAP Strategic Plans, interventions in the form of ‘market withdrawals for destinations other than free distribution’ in respect of animal products and products of the sugar sector as referred to in Article 1(2) of Regulation (EU) No 1308/2013.



Article 20

Collective storage

1. When Member States include, in their CAP Strategic Plans, collective storage interventions as referred to in Article 47(2), point (c), of Regulation (EU) 2021/2115, they shall provide for a temporary withdrawal of a product from the market in period of certain market pressure, and adopt rules to ensure that the product is stored under the responsibility of the beneficiary in such conditions that preserves its normal commercial value and in respect of the applicable sanitary rules. For products with a short shelf-life in their fresh stage, Member States shall provide for the product to be stored frozen or in a processed form. Products for which a certain maturation period is required in their normal production process, or where such maturation process increases the value of the product, are only eligible for collective storage once that maturation period is fully completed.

2. Member States shall fix, for each product for which this intervention is provided in their CAP Strategic Plans, the minimum storage duration and the maximum amount of compensation per unit of product and per day of storage, as well as the relevant storage conditions. The maximum amount that can be financed with the operational fund shall not be higher than the sum of the cost of the physical storage, in the frozen or processed form where relevant, and the financial cost due to immobilising the value of the product at current market prices. This maximum amount shall not include the possible freezing or processing costs or the possible devaluation of the product. Member States shall fix also the control procedures, including on-the-spot checks, to assure the non-substitution of the products as well as the respect of the storage conditions and of the storage period.

Section 2

Forms of support and types of expenditure

Article 21

Forms of support

1. ► **M1** In the sectors referred to in Article 42 of Regulation (EU) 2021/2115, Member States shall provide for payments of support on the basis of the reasonable actual costs incurred by the beneficiary, supported by documents, such as invoices, submitted by the beneficiaries for the implementation of an intervention specified in their CAP Strategic Plan. ◀

However, Member States may choose to provide for payment of support on the basis of standard flat rates, scales of unit costs or lump sums. When establishing those flat rates, scales and lump sums, Member States shall take into account regional or local specificities and base their calculation on documentary evidence demonstrating that the calculation reflects the market price of the operations or actions covered by the intervention concerned.

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2. In the fruit and vegetables sector, Member States shall respect the maximum amounts of expenditure and the conditioning costs which may be paid in relation to the relevant interventions specified in their CAP Strategic Plans set out in Annexes V and VII.

3. Where Member States provide, in their CAP Strategic Plans, for payment of support in the form of standard flat rates, scales of unit costs or lump sums, those shall be reviewed periodically in order to take account an indexation or an economic change.

4. When Member States use the fair, equitable and verifiable calculation method established pursuant to Article 44(2), point (a), of Regulation (EU) 2021/2115, they shall keep all the documentary evidence concerning the establishment of standard flat rates, scales of unit costs or lump sums and their review as referred to in paragraph 3 of this Article.

5. Where Member States include, in their CAP Strategic Plans, interventions in the wine sector related to the restructuring and conversion of vineyards and investments in tangible and intangible assets, the following rules shall apply:

- (a) if Member States decide to calculate the amount of the support on the basis of standard scales of unit costs based on a surface measurement unit, the amount shall correspond to the actual surface measured in accordance with Article 42 of this Regulation;
- (b) if Member States decide to calculate the amount of the support on the basis of standard scales of unit costs based on other measurement units or on the basis of the actual costs resulting from supporting documents to be submitted by the beneficiaries, they shall lay down rules on appropriate control methods to establish the actual extent of implementation of the operation.

6. This Article shall not apply to Union financial assistance for the distillation of by-products of wine making carried out in accordance with the restrictions laid down in Part II, Section D, of Annex VIII to Regulation (EU) No 1308/2013.

*Article 22***Types of expenditure**

1. Types of expenditure covered by the types of intervention referred to in Title III, Chapter III, of Regulation (EU) 2021/2115 shall not compensate the value added tax of the eligible expenditure incurred by the beneficiary, except where it is non-recoverable under national VAT legislation.

2. Types of expenditure referred to in paragraph 1 shall not include the types of expenditure listed in Annex II.

3. The types of expenditure listed in Annex III shall be considered eligible by Member States when defining the relevant interventions and may be covered by the operational programmes or as so specified by Member States in the relevant interventions. Member States may consider eligible other types of expenditure in their CAP Strategic Plans provided they are not listed in Annex II.

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4. Member States shall establish, in their CAP Strategic Plans, the conditions under which expenditures linked to interventions referred to in Articles 11 and 12 may be counted as contributing to the objectives of 15 % and 2 % of expenditure under operational programmes as referred to in Article 50(7), points (a) and (c), of Regulation (EU) 2021/2115, respectively, and of 5 % of expenditure under interventions as referred to in Article 60(4) of that Regulation. Such conditions shall ensure that these interventions pursue effectively the related objectives set out in Articles 46 and 57 of that Regulation, respectively, for the fruit and vegetables and the wine sectors.

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Expenditure linked to interventions referred to in Articles 11 and 12 of this Regulation pursuing agri-environment-climate objectives, but not exclusively, shall be considered as being exclusively linked to those objectives provided that those interventions contribute directly and significantly to those objectives. The full expenditure shall be counted against the 15 % and the 2 % of expenditure under operational programmes as referred to in Article 50(7), points (a) and (c), of Regulation (EU) 2021/2115, respectively, and against the 5 % of expenditure under interventions as referred to in Article 60(4) of that Regulation.

5. Expenditure linked to interventions referred to in Title III, Chapter III, of Regulation (EU) 2021/2115 contributing to objectives laid down either in Article 46, points (a) to (k), or in Article 57, points (a) to (k), of that Regulation, shall be counted taking into account the entire duration period of operational programmes in the case of the types of interventions referred to in Article 42, points (a), (d), (e) and (f), of that Regulation or each financial year in the case of the types of interventions referred to in Article 42, point (c), of that Regulation.

▼B*Article 23***Administrative and personnel costs**

1. Personnel costs incurred by the beneficiary, subsidiaries within the meaning of Article 31(7) or, subject to Member State's approval, by a cooperative which is member of a producer organisation shall be considered eligible for support if they are incurred in relation to the preparation, implementation or follow-up of a particular supported intervention.

Such personnel costs shall include, inter alia, costs of personnel contracted by the beneficiary and the costs corresponding to the share of the working hours invested in the implementation of an intervention by its permanent staff.

Member States shall ensure that the beneficiary submits supporting documents setting out the details of the work actually carried out in relation to the particular intervention and that the value of the related personnel cost can be independently assessed and verified. The value of personnel cost related to a particular intervention shall not exceed the costs generally accepted on the market in question for the same kind of service.

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For the purpose of determining personnel costs linked to the implementation of an intervention by the permanent personnel of the beneficiary, the hourly rate applicable may be calculated by dividing the last documented annual gross employment costs of the specific employees that have worked in the implementation of the operation by 1 720 hours, or on pro rata basis in case of part-time employees.

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For the interventions ‘promotion, communication’ and ‘communication actions’ referred to in Article 47(1), point (f), and (2), point (l), of Regulation (EU) 2021/2115 and for the actions undertaken by inter-branch organisations and promotion and communication carried out in third countries as referred to in Article 58(1), first subparagraph, points (i), (j) and (k), of that Regulation, the expenditure paid for administrative and personnel costs directly incurred by the beneficiaries shall not exceed 50 % of the overall cost of the intervention.

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2. Administrative costs incurred by the beneficiary, subsidiaries within the meaning of Article 31(7) or, subject to Member State’s approval, by a cooperative which is member of a producer organisation shall be considered eligible for support if they are incurred in relation to the preparation, implementation or follow-up of a particular supported intervention.

The administrative costs shall be considered eligible if they do not exceed 4 % of the total eligible costs of the implemented intervention.

The costs of external audits shall be considered eligible for support where such audits are performed by an independent and qualified external body.

3. Member States may provide in their CAP Strategic Plans, for the fruit and vegetables sector, for the hops sector, for the olive oil and table olives sector or for other sectors referred to in Article 42, point (f), of Regulation (EU) 2021/2115, a standard flat rate for the personnel and administrative costs linked to the management of the operational fund or the preparation, implementation and follow-up of the operational programme up to a maximum of 2 % of the operational fund approved, comprising both the Union financial assistance and the contribution of the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group.

CHAPTER II

Specific rules applicable to the fruit and vegetables sector, to the olive oil and table olives sector, and to the other sectors referred to in Article 42, point (f), of Regulation (EU) 2021/2115

Section 1

Products covered and transport costs*Article 24***Products covered**

Only products for which the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group is

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recognised shall be covered by the type of intervention provided that the value of the products covered by the operational programme account for more than 50 % of the value of all products marketed by that organisation in the sector covered by that operational programme. In addition, the products concerned shall come from the producer organisation's members or producer members of another producer organisation or association of producer organisations.

*Article 25***Transport costs and conditioning requirement for free distribution**

1. When Member States include in their CAP Strategic Plans, interventions in the form of 'market withdrawal for free-distribution or other destinations' referred to in Article 47(2), point (f), of Regulation (EU) 2021/2115, they shall fix the costs of transport for the free distribution of all products withdrawn from the market under operational programmes on the basis of scale of unit costs set according to the distance between the place of withdrawal and the place of delivery for free distribution. Only transport costs up to a distance of 750 km can be reimbursed.

2. The transport costs shall be paid to the party that actually bears the financial cost of the transport operation in question. Payment shall be subject to the presentation of supporting documents certifying, in particular:

- (a) the names of the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group;
- (b) the quantity of the products concerned;
- (c) acceptance by the recipients as referred to in Article 52(6), point (a), of Regulation (EU) 2021/2115 and the means of transport used;
- (d) the distance between the place of withdrawal and the place of delivery.

3. Conditioning of products withdrawn from the market for free distribution under operational programmes shall be subject to the following:

- (a) packages of products for free distribution display the Union emblem referred to in Article 15(2), together with one or more of the statements set out in Annex IV; payment is subject to the presentation of supporting documents certifying in particular:
 - (i) the names of the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations;
 - (ii) the quantity of the products concerned;
- (b) acceptance by the recipient as referred to in Article 52(6), point (a), of Regulation (EU) 2021/2115, specifying the presentation.

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Section 2

Maximum level of Union financial assistance for market withdrawals*Article 26***Support****▼M1**

1. For the type of intervention ‘market withdrawal for free distribution or other destinations’ referred to in Article 47(2), point (f), of Regulation (EU) 2021/2115, in relation to fruit and vegetables listed in Annex V to this Regulation, the conditioning costs of products withdrawn for free distribution referred to in Article 33 of this Regulation, added to the amount of support for market withdrawals, shall not exceed 80 % of the average ‘ex-producer organisation’ market price of the product concerned at fresh stage in the previous last 3 years.

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2. For the type of intervention ‘market withdrawal for free distribution or other destinations’ referred to in Article 47(2), point (f), of Regulation (EU) 2021/2115 applicable to products other than those listed in Annex V to this Regulation, Member States shall set maximum amounts of support, comprising the Union financial assistance, the national contribution where relevant and contribution from the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group, at a level not exceeding 40 % of the average ‘ex-producer organisation’ market prices for the previous 5 years in case of free distribution and at a level not exceeding 30 % of the average ‘ex-producer organisation’ market prices for the previous 5 years for destinations other than free distribution.

3. Where the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group has received compensation from third parties for withdrawn products, the support referred to in the first subparagraph shall be reduced by an amount equivalent to the compensation received. In order to be eligible for support, the products concerned shall not enter again the commercial market.

4. The share of market withdrawals, other than for free distribution, of any given product of any given producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group undertaken in a given year shall be as follows:

- (a) it shall not exceed 10 % of the average volume of marketed production by that producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group during the 3 previous years;

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- (b) and, for fruit and vegetables, in total, the sum of the percentages over 3 consecutive years shall not exceed 15 when adding the share calculated in accordance with point (a) for the current year and the shares of the market withdrawals of the 2 previous years calculated on the basis of the respective volume of marketed production by that producer organisation during those 2 previous years.

If the information on the volume of marketed production of any or all of the previous years is not available, the volume of marketed production for which the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group was recognised shall be used.

However, amounts of withdrawals for free distribution which are disposed of in one of the ways referred to in Article 52(6) of Regulation (EU) 2021/2115 or any other equivalent destination approved by Member States as referred to in Article 27(2) of this Regulation shall not be taken into account in the share of market withdrawals.

5. In relation to products listed in Annex V, the support for market withdrawals comprising both the Union financial assistance and the producer organisation contribution, shall be no more than the amounts set out in that Annex.

The Union financial assistance in case of market withdrawals of fruit and vegetables which are disposed of by way of free distribution to charitable organisations, foundations and institutions as referred to in Article 52(6) of Regulation (EU) 2021/2115 shall only cover payment for the disposed products in accordance with paragraphs 1 or 2 of this Article where the conditioning costs shall be those referred to in Article 33 of this Regulation.

*Article 27***Destinations for withdrawn products**

1. When Member States include in their CAP Strategic Plans interventions in the form of 'market withdrawal for free distribution or other destinations' in the fruit and vegetables sector, in the olive oil and table olives sector and in other sectors referred to in Article 42, point (f), of Regulation (EU) 2021/2115, they shall determine the permissible destinations for products withdrawn from the market and ensure that no negative impact on the environment nor any negative phytosanitary consequences result from the withdrawal or its destination.

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2. Upon request of charitable organisations, foundations or institutions as referred to in Article 52(6), point (a), of Regulation (EU) 2021/2115, Member States may authorise the charitable organisations, foundations or institutions to ask for a contribution from the final recipients of products withdrawn from the market.

When the charitable organisations, foundations or institutions referred to in Article 52(6), point (a), of Regulation (EU) 2021/2115 concerned have obtained such authorisation, they shall keep financial accounts for the operation in question.

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Member States may authorise payment in kind by the beneficiaries of free distribution to processors of products withdrawn from the market and undergoing processing, where such payment only compensates for processing costs and where the Member State in which the payment takes place has adopted rules ensuring that the processed products are intended for consumption by the final recipients referred to in the first subparagraph of this paragraph. The limit laid down in Article 26(1) shall apply.

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Member States shall take all the necessary steps to facilitate contacts and cooperation between producer organisations and charitable organisations foundations or institutions as referred to in Article 52(6), point (a), of Regulation (EU) 2021/2115.

3. Disposal of products withdrawn to the industry for processing into non-food products shall be possible. Member States shall adopt detailed provisions to ensure that no distortion of competition occurs for the industries concerned within the Union or for imported products and that products withdrawn do not enter the commercial food market again. The alcohol resulting from distillation shall be used exclusively for industrial or energy purposes.

*Article 28***Conditions for the recipients of withdrawn products**

1. The recipients of withdrawn products for free distribution in the sectors referred to in Articles 42, points (a), (e) and (f), of Regulation (EU) 2021/2115 shall undertake to:

- (a) comply with the rules concerning marketing standards laid down in Regulation (EU) No 1308/2013;
- (b) keep separate stock records for the withdrawal operations in question;
- (c) accept the checks provided for by Union and national law;
- (d) provide the supporting documents on the final destination of each of the products concerned, in the form of a take-over certificate or equivalent document certifying that the withdrawn products have been taken over by a third party with a view to their free distribution.

Member States may decide that recipients do not have to keep records as referred to in the first subparagraph, point (b), if they receive quantities below a maximum to be determined by them based on a documented risk analysis.

2. The recipients of withdrawn products for destinations other than free distribution shall undertake to:

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- (a) comply with the rules concerning marketing standards laid down in Regulation (EU) No 1308/2013;
- (b) keep separate stock records and financial accounts for the operations in question if the Member State considers it as necessary despite the fact that the product has been denatured before delivery;
- (c) accept the checks provided for by Union and national law;
- (d) not request additional aid for the alcohol produced from the products concerned in the case of withdrawn products intended for distillation.

*Article 29***Marketing standards of withdrawn products**

1. A product withdrawn from the market for destinations other than free distribution, in the sectors referred to in Articles 42, points (a), (e) and (f), of Regulation (EU) 2021/2115, shall comply with the relevant standard and rules for the marketing of that product as referred to in Regulation (EU) No 1308/2013, except the rules on the presentation and marking of products.

Where fruits and vegetables are withdrawn in bulk, the minimum requirements for class II as defined in Commission Implementing Regulation (EU) No 543/2011 ⁽⁹⁾ shall be complied with.

However, miniature produce from the fruit and vegetables sector, as defined in the relevant standard, shall comply with the applicable marketing standard, including the provisions on the presentation and marking of products.

2. If a specific marketing standard is not laid down for a given fruit or vegetable, the minimum requirements set out in Annex VI shall be met. Member States may lay down additional rules supplementing those minimum requirements.

Section 3**Basis for the calculation of Union financial assistance***Article 30***Value of marketed production for newly recognised organisations or groups**

Where, during the 3 years following its recognition, historical data on marketed production for a producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations, or producer group in the sectors referred to in Articles 42, points (a), (e) and (f), of Regulation (EU) 2021/2115 is not available for the 3 previous years, Member States shall accept the value of marketed or marketable production during a period of 12 consecutive months communicated by the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations, or producer group for which the organisation concerned or the producer group can prove at the satisfaction of the Member State that it has the actual capacity to market it on behalf of its producer members.

⁽⁹⁾ Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors (OJ L 157, 15.6.2011, p. 1).

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However, if the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group has communicated the value of the marketed production for the purpose of its recognition, only this value shall be accepted by the Member State.

*Article 31***Basis for calculation of the value of marketed production**

1. The value of marketed production for a producer organisation, transnational producer organisation, or producer group in the sectors referred to in Article 42, points (a), (e) and (f), of Regulation (EU) 2021/2115 shall be calculated on the basis of the production of the producer organisation, transnational producer organisation, or producer group itself and its producer members that has been put on the market by this organisation or group, and shall only include the production of those products for which the producer organisation, transnational producer organisation, or producer group is recognised. The value of marketed production may include products that are not required to conform to the marketing standards, where those standards do not apply.

The value of marketed production for an association of producer organisation or a transnational association of producer organisations shall be calculated on the basis of the production marketed by the association of producer organisations or transnational association of producer organisations itself and by its member producer organisations, and shall only include the production of those products for which the association of producer organisations or transnational association of producer organisations is recognised. However, where operational programmes are approved for an association of producer organisation or a transnational association of producer organisations and separately for its member producer organisations, the value of marketed production counted for the operational programmes of the members shall not be taken into account for the calculation of the value of the marketed production of the association.

In addition, for sectors listed in Article 42, points (e) and (f), of Regulation (EU) 2021/2115, the value of marketed production may also include the value of the production covered by contracts negotiated by the producer organisation, transnational producer organisation, association of producer organisations, transnational association of producer organisations or producer group on behalf of its members.

2. **►M1** The value of marketed production shall be calculated at fresh stage or the first processing stage on which the product is normally marketed, in bulk where products are allowed to be marketed in bulk, and shall not include the cost of further processing or further conditioning or the value of final processed products. For the sectors referred to in Article 42, points (e) and (f), of Regulation (EU) 2021/2115, Member States shall indicate in their CAP Strategic Plans how the value of marketed production is calculated for each sector. ◀

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The value of the marketed production of fruit and vegetables intended for processing, which have been transformed into one of the processed fruit and vegetable products listed in Annex I, Part X, to Regulation (EU) No 1308/2013 or any other processed product referred to in this paragraph, by either a producer organisation, an association of producer organisations or their producer members or subsidiaries complying with paragraph 7 of this Article, either by themselves or through outsourcing, shall be calculated as a flat rate in percentage applied to the invoiced value of those processed products. That flat rate shall be:

- (a) 53 % for fruit juices;
- (b) 73 % for concentrated juices;
- (c) 77 % for tomato concentrate;
- (d) 62 % for frozen fruit and vegetables;
- (e) 48 % for canned fruit and vegetables;
- (f) 70 % for canned mushrooms of *Agaricus bisporus* and other cultivated mushrooms preserved in brine;
- (g) 81 % for fruits provisionally preserved in brine;
- (h) 81 % for dried fruits;
- (i) 27 % for processed fruit and vegetables other than those referred to in points (a) to (h);
- (j) 12 % for processed aromatic herbs;
- (k) 41 % for paprika powder.

3. Member States may allow the beneficiary to include the value of the by-products in the value of marketed production.

4. The value of marketed production shall include the value of market withdrawals for free distribution. The value of withdrawals for free distribution shall be calculated on the basis of the average price of those products marketed by the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group in the period concerned.

5. Only the production of the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations, producer group, or its producer members which is marketed by that producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group shall be counted in the value of marketed production.

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The production of the producer members of the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group marketed by another producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group designated by their own organisation shall be counted in the value of marketed production of the organisation, association or group that marketed the production. Double counting shall be prohibited.

6. Except where paragraph 7 applies, the marketed production of the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group shall be invoiced at the ‘ex-producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group’ stage ready for marketing, excluding:

- (a) VAT;
- (b) costs of transport internal to the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group.

7. However, the value of marketed production may also be calculated at the ‘ex-subsidiary’ stage, on the basis set out in paragraph 6, provided that at least 90 % of the shares or capital of the subsidiary is owned:

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- (a) by one or more producer organisations, associations of producer organisations, transnational producer organisations, transnational associations of producer organisations or producer groups; or

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- (b) subject to Member State approval, by producer members of the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group, if doing so contributes to the objectives listed in Article 152(1), point (c), of Regulation (EU) No 1308/2013.

8. In case of outsourcing, the value of marketed production shall be calculated at the ‘ex-producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group’ stage and shall include the added economic value of the activity that has been outsourced by the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group to its members, third parties or to another subsidiary than the one referred to in paragraph 7.

9. Where a reduction in production occurs due to a natural disaster, climatic event, plant or animal diseases or pest infestations, any insurance indemnification received in respect of harvest or production insurance actions referred to in Article 18, or equivalent actions managed by the producer organisation, association of producer organisations, transnational producer organisation, transnational association of

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producer organisations or producer group, or its producer members, due to those causes may be included in the value of marketed production of the 12-month reference period in which it is actually paid.

*Article 32***Reference period and ceiling on Union financial assistance**

1. Member States shall determine for each producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group a 12-month reference period, starting no earlier than 1 January of the year that is 3 years prior to the year for which the aid is requested and ending no later than 31 December of the year preceding the year for which the aid is requested.

The 12-month reference period shall be the accounting period of the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group concerned.

The methodology for fixing the reference period shall not vary during a programme except in duly justified situations.

2. Member States shall decide whether the ceiling on Union financial assistance to the operational fund is calculated each year, either:

- (a) on the basis of the value of the marketed production during the reference period of the producers who are members of the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group on 1 January of the year for which the aid is requested; or
- (b) on the basis of the actual value of the marketed production in the reference period concerned of the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group concerned. In that case, the rule shall apply to all non-transnational beneficiaries in that Member State.

3. Where for a product a reduction of at least 35 % in the value of marketed production for a given year in relation to the average of three previous 12-month reference periods has occurred, the following shall apply:

- (a) if the reduction occurred due to reasons falling outside the responsibility and control of the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group, the value of marketed production of that product shall be deemed to represent 65 % of the average value in the three previous 12-month reference periods;

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- (b) if the reduction occurred due to natural disasters, climatic events, plant diseases or pest infestations falling outside the responsibility and control of the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group, the value of marketed production of that product shall be deemed to represent 85 % of the average value in the three previous 12-month reference periods.

In both cases, the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group shall prove to the competent authority of the Member State concerned that those reasons were falling outside its responsibility and control.

Where the producer organisation, association of producer organisations, transnational producer organisation, transnational association of producer organisations or producer group proves to the Member State concerned that those reasons were falling outside its responsibility and control and that they have taken the necessary preventive measures, the value of marketed production of that product shall be deemed to represent 100 % of its average value in the three previous 12-month reference periods.

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Section 4

Types of interventions implemented by transnational producer organisations and transnational associations of producer organisations

Article 32a

Rules applying to types of interventions implemented by transnational producer organisation and transnational associations of producer organisations

Types of interventions under operational programmes implemented by transnational producer organisation and transnational associations of producer organisations shall comply with the national strategic plan and the national rules of the Member State, where the head office of the transnational producer organisation or the transnational association of producer organisation is located in accordance with Article 14 or 21 of Commission Delegated Regulation (EU) 2017/891 ⁽¹⁰⁾.

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CHAPTER III

*Fruit and vegetables sector***▼M1***Article 33***Conditioning costs for free distribution**

The payments of expenditure to the producer organisation, association of producer organisations, transnational producer organisation, transnational

⁽¹⁰⁾ Commission Delegated Regulation (EU) 2017/891 of 13 March 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to penalties to be applied in those sectors and amending Commission Implementing Regulation (EU) No 543/2011 (OJ L 138, 25.5.2017, p. 4).

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association of producer organisations related to the costs of conditioning of fruit and vegetables withdrawn from the market for free distribution under operational programmes shall not exceed the amount of the costs set out in Annex VII.

The first paragraph shall not apply to fruits and vegetables withdrawn from the market where the free distribution takes place after their processing.

▼B*Article 34***Calculation of the degree of organisation of producers for the purpose of the national financial assistance**

1. When determining the level of national financial assistance in the fruit and vegetables sector in accordance with Article 53 of Regulation (EU) 2021/2115, the degree of organisation in a region of a Member State shall be calculated on the basis of the value of fruit and vegetables produced in the region concerned and marketed by the organisations and shall only include those products for which those organisations are recognised. Article 31 of this Regulation shall apply *mutatis mutandis*.

2. Only fruit and vegetables produced in the region referred to in paragraph 3 shall be considered for the purposes of this Article.

3. Member States shall define the regions as a distinct part of their national territory in accordance with objective and non-discriminatory criteria, such as their agronomic and economic characteristics and their regional agricultural or fruit and vegetable potential, or their institutional or administrative structure and for which data are available in order to calculate the degree of organisation referred to in paragraph 1.

The list of regions established by a Member State shall not be amended at least for 5 years unless such amendment is objectively justified, in particular for reasons that are not related to the calculation of the degree of organisation of producers in the region or regions concerned.

4. Member States shall notify the Commission by 31 January each year of the list of the regions that meet the criteria referred to in Article 53(1) and (2) of Regulation (EU) 2021/2115, and of the amount of national financial assistance granted to the producer organisations in those regions.

Member States shall notify the Commission of any amendment of the list of the regions.

5. A producer organisation wishing to apply for national financial assistance shall, if necessary, amend its operational programme.

*Article 35***3-year average for market withdrawals for free distribution**

1. The limit of 5 % of the volume of marketed production referred to in Article 52(6), point (a), of Regulation (EU) 2021/2115 shall be calculated on the basis of the average of the overall volumes of products for which the producer organisation is recognised and which are marketed through the producer organisation during the 3 previous years.

▼B

2. For newly recognised producer organisations, the data for marketing years prior to recognition shall be:

- (a) where the organisation was a producer group, the equivalent data for that producer group; or
- (b) the volume applicable to the application for recognition.

*CHAPTER IV****Apiculture sector****Article 36***Definition of beehive**

For the purposes of this Chapter, the term ‘beehive’ means the unit containing a honeybee colony used for the production of honey, other apiculture products or honeybee breeding material, and all the elements necessary for its survival.

*Article 37***Method to calculate the number of beehives**

The number of beehives ready for wintering in the territory of the Member States between 1 September and 31 December shall be calculated each year according to an established reliable method laid down in the CAP Strategic Plans.

*Article 38***Notification of the number of beehives**

The annual notification of the number of beehives referred to in Article 55(7) of Regulation (EU) 2021/2115 as calculated in accordance with Article 37 of this Regulation, shall be made by 15 June of each year, starting in 2023.

*Article 39***Minimum Union contribution**

The minimum Union contribution to the expenditure related to the implementation of the types of intervention in the apiculture sector referred to in Article 55 of Regulation (EU) 2021/2115 and specified by Member States in their CAP Strategic Plans shall be 30 %.

*CHAPTER V****Wine sector****Article 40***Beneficiaries**

1. Member States shall establish which operators, may benefit from interventions in the wine sector specified in their CAP Strategic Plans. Those operators shall include beneficiaries as referred to in paragraphs 2, 3 and 4 as well as professional organisations, wine producer organisations, associations of wine producer organisations, temporary or permanent associations of two or more wine producers and interbranch organisations.

▼B

2. Member States shall provide for wine growers to be the sole beneficiaries of the types of intervention ‘restructuring and conversion of vineyards’, ‘green harvesting’ and ‘harvest insurance’ referred to in Article 58(1), first subparagraph, points (a), (c) and (d), of Regulation (EU) 2021/2115, respectively.

3. A body governed by public law may not benefit from support under the types of intervention in the wine sector. However, Member States may allow a body governed by public law to benefit from the support:

- (a) for actions implemented by interbranch organisations as referred to in Article 58(1), first subparagraph, points (i) and (j), of Regulation (EU) 2021/2115;
- (b) for information actions and promotion and communication carried out in third countries as referred to in Article 58(1), first subparagraph, points (h) and (k), of Regulation (EU) 2021/2115, provided that, it is not the sole beneficiary of the support granted in respect of those interventions;

▼M1

- (c) for interventions as referred to in Article 58(1) of Regulation (EU) 2021/2115, implemented by public schools in vitiviculture that are also wine growers.

▼B

4. Private companies may be beneficiaries for the promotion and communications carried out in third countries as referred to in Article 58(1), first subparagraph, point (k), of Regulation (EU) 2021/2115.

5. No support shall be granted to producers farming unlawful plantings and areas planted with vines without authorisation pursuant to Article 71 of Regulation (EU) No 1308/2013.

*Article 41***Replanting of vineyards for health or phytosanitary reasons**

The annual expenditure paid by Member States for support to interventions specified in their CAP Strategic Plans in relation to the replanting of vineyards following mandatory grubbing-up shall not exceed 15 % of the total annual expenditure on restructuring and conversion of vineyards under Article 58(1), first subparagraph, point (a), of Regulation (EU) 2021/2115 paid by the Member State concerned during any given financial year.

The grubbing-up costs and the compensation of the income foregone shall not constitute eligible expenditure under this type of intervention.

*Article 42***Area planted**

1. For the purposes of Article 58(1), first subparagraph, points (a) and (c), of Regulation (EU) 2021/2115, an area planted with vines is defined by the external perimeter of the vine stocks with the addition of a buffer whose width corresponds to half of the distance between the rows.

▼B

2. Where a Member State decides to verify the eligible costs of operations for the restructuring and conversion of vineyards and green harvesting exclusively on the basis of standard scales of unit costs based on measurement units different from the surface or of supporting documents to be submitted by the beneficiaries, the competent authorities may decide not to measure the area planted as set out in paragraph 1.

*CHAPTER VI****Hops sector****Article 43***Union financial assistance**

The maximum Union financial assistance to be allocated to each producer organisation or association, as referred to in Article 62(1) of Regulation (EU) 2021/2115, shall be calculated pro rata based on the eligible hop areas of its producer members. To be eligible, the hop areas shall be planted at a uniform density of at least 1 500 plants per hectare in the case of double stringing/wiring, or at least 2 000 plants per hectare in the case of single stringing/wiring.

The areas shall only include areas bounded by a line joining the outer stays of the poles. Where there are hop plants on that line, an additional strip of a width corresponding to the average width of an alleyway within that parcel may be added to each side of that area. The additional strip shall not form part of a public right of way. The two headlands at the ends of the hop rows that are needed for manoeuvring agricultural machinery may be included in the area, provided that the length of neither headland exceeds 8 metres and they are counted only once, and they do not form part of a public right of way.

The areas shall not include areas planted with young hop plants grown chiefly as nursery products.

*CHAPTER VII****Livestock sector****Article 44***Restocking with livestock following compulsory slaughter for health reasons or because of losses resulting from natural disasters**

1. Member States shall ensure that the type of intervention ‘restocking with livestock after compulsory slaughter for health reasons or because of losses resulting from natural disasters’ as referred to in Article 47(2), point (e), of Regulation (EU) 2021/2115, is only implemented when disease control measures have been taken in accordance with Regulation (EU) 2016/429 of the European Parliament and of the Council ⁽¹⁾.

⁽¹⁾ Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health (‘Animal Health Law’) (OJ L 84, 31.3.2016, p. 1).

▼B

2. Expenditure for restocking with livestock shall not exceed 20 % of the total expenditure under operational programmes.

TITLE IV

ADDITIONAL REQUIREMENTS FOR CERTAIN TYPES OF INTERVENTION IN RURAL DEVELOPMENT

Article 45

Conservation, sustainable use and development of genetic resources in agriculture and in forestry

1. Member States which include, in their CAP Strategic Plans, interventions related to the conservation, sustainable use and development of genetic resources in agriculture and in forestry as referred to in Article 70 of Regulation (EU) 2021/2115 may provide support only as:

- (a) agri-environment-climate commitments for preserving on farm endangered breeds and plant varieties under threat of genetic erosion; or
- (b) support for activities regarding the conservation, the sustainable use and development of genetic resources in agriculture and in forestry.

Activities covered by the type of agri-environment-climate commitments referred to in the first subparagraph, point (a), shall not be eligible for support pursuant to that subparagraph, point (b).

2. Member States shall ensure that agri-environment-climate commitments for preserving on farm endangered breeds and plant varieties under threat of genetic erosion, referred to in paragraph 1, first subparagraph, point (a), shall require:

- (a) to rear farm animals of local breeds, recognised by a Member State to be endangered, genetically adapted to one or more traditional production systems or environments in that Member State, where the endangered status is scientifically established by a body possessing the necessary skills and knowledge in the area of endangered breeds, as defined in Article 2, point (24), of Regulation (EU) 2016/1012 of the European Parliament and of the Council ⁽¹²⁾; or
- (b) to preserve plant genetic resources naturally adapted to the local and regional conditions and under threat of genetic erosion.

⁽¹²⁾ Regulation (EU) 2016/1012 of the European Parliament and of the Council of 8 June 2016 on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals, hybrid breeding pigs and the germinal products thereof and amending Regulation (EU) No 652/2014, Council Directives 89/608/EEC and 90/425/EEC and repealing certain acts in the area of animal breeding ('Animal Breeding Regulation') (OJ L 171, 29.6.2016, p. 66).

▼B

3. The following species of farm animals of local breeds referred to in paragraph 2, point (a), may be eligible for support:

- (a) cattle;
- (b) sheep;
- (c) goats;
- (d) equidae (*Equus caballus* and *Equus asinus*);
- (e) pigs;
- (f) birds;
- (g) rabbits;
- (h) bees.

4. Member States shall only consider as eligible for support local breeds referred to in paragraph 2, point (a), if the following requirements are complied with:

- (a) the number, at national level, of breeding females concerned is stated;
- (b) a duly recognised relevant breed society registers and keeps up-to-date the herd or flockbreeding book for the breed.

5. Member States shall consider plant genetic resources referred to in paragraph 2, point (b), as being under threat of genetic erosion on condition that sufficient evidence of genetic erosion, based upon scientific results or indicators for the reduction of landraces or primitive local varieties, their population diversity and, where relevant, for modifications in the prevailing agricultural practices at local level, is provided.

6. Member States shall ensure that operations for the conservation, the sustainable use and development of genetic resources in agriculture and in forestry, referred to in paragraph 1, first subparagraph, point (b), include the following:

- (a) targeted actions promoting *in situ* and *ex situ* conservation, characterisation, collection and utilisation of genetic resources in agriculture and forestry, including web-based inventories of genetic resources currently conserved *in situ*, including on-farm or on-forest holding conservation, and *ex situ* collections and databases;
- (b) concerted actions promoting the exchange of information for the conservation, characterisation, collection and utilisation of genetic resources in Union agriculture or forestry among competent Member State organisations;
- (c) accompanying action: information, dissemination, advice, training, and technical report preparation, involving non-governmental organisations and other stakeholders.

7. For the purposes of paragraph 1, first subparagraph, point (b), the following definitions shall apply:

- (a) ‘*in situ* conservation’ in agriculture means the conservation of genetic material in ecosystems and natural habitats and the maintenance and recovery of viable population of species or feral breeds in their natural surroundings and, in the case of domesticated animal breeds or cultivated plant species, in the farmed environment where they have developed their distinctive properties;

▼B

- (b) ‘*in situ* conservation’ in forestry means the conservation of genetic material in ecosystems and natural habitats and the maintenance and recovery of viable population of species in their natural surroundings;
- (c) ‘on-farm or on-forest holding conservation’ means *in situ* conservation and development at farm or forest holding level;
- (d) ‘*ex situ* conservation’ means the conservation of genetic material for agriculture or forestry outside their natural habitat;
- (e) ‘*ex situ* collection’ means a collection of genetic material for agriculture or forestry maintained outside their natural habitat.

*Article 46***Animal welfare**

Member States which include in their CAP Strategic Plans interventions related to animal welfare commitments referred to in Article 70 of Regulation (EU) 2021/2115 shall ensure that animal welfare commitments provide upgraded standards of production methods in at least one of the following areas:

- (a) water, feed, and animal care in accordance with the natural needs of animals;
- (b) housing conditions that improve the comfort of animals and their freedom of movement, such as increased space allowances, flooring surfaces, natural light, microclimate control, as well as housing conditions such as free farrowing or group housing, depending on the natural needs of animals;
- (c) conditions allowing for expression of natural behaviour, such as enrichment of living environment or late weaning;
- (d) outdoor access and grazing;
- (e) practices that increase animal robustness and longevity, including slower growing breeds;
- (f) practices to avoid mutilation or castration of animals. In specific cases when mutilation or castration of animals is deemed necessary, anaesthetics, analgesia and anti-inflammatory medication or immunocastration shall be used;
- (g) sanitary measures, preventing non-transmissible diseases, that do not require the use of medical substances such as vaccines, insecticides or anti-parasitic drugs.



Article 47

Quality schemes

Member States which include in their CAP Strategic Plans interventions related to quality schemes, referred to in Article 77(1), point (c), of Regulation (EU) 2021/2115, shall ensure that national recognised quality schemes cover:

- (a) quality schemes, including farm certification schemes, for agricultural products, cotton or foodstuffs, recognised by the Member States as complying with the following criteria:
 - (i) the specificity of the final product under such schemes is derived from clear obligations to guarantee any of the following:
 - specific product characteristics,
 - specific farming or production methods, or
 - a quality of the final product that goes significantly beyond the commercial commodity standards as regards public, animal or plant health, animal welfare or environmental protection;
 - (ii) the scheme is open to all producers;
 - (iii) the scheme involves binding product specifications and compliance with those specifications is verified by public authorities or by an independent inspection body;
 - (iv) the scheme is transparent and assures complete traceability of products;
- (b) voluntary agricultural product certification schemes recognised by the Member States as meeting the Union best practice guidelines for the operation of voluntary certification schemes referred to in Commission Communication of 16 December 2010 entitled ‘EU best practice guidelines for voluntary certification schemes for agricultural products and foodstuffs’⁽¹³⁾ relating to agricultural products and foodstuffs.

TITLE V

RULES ON THE RATIO FOR GAEC STANDARD 1

Article 48

Rules on the ratio for GAEC standard 1

1. For the maintenance of permanent grassland in relation with GAEC standard 1 as listed in Annex III to Regulation (EU) 2021/2115, Member States shall ensure that the ratio of permanent grassland in relation to agricultural area does not decrease by more than 5 % compared to a reference ratio to be established by each Member State in its CAP Strategic Plan by dividing areas of permanent grassland by the total agricultural area.

⁽¹³⁾ OJ C 341, 16.12.2010, p. 5.

▼B

For the purpose of establishing the reference ratio referred to in the first subparagraph:

- (a) ‘areas of permanent grassland’ means permanent grassland declared in 2018 in accordance with Article 72(1), first subparagraph, point (a), of Regulation (EU) No 1306/2013 of the European Parliament and of the Council⁽¹⁴⁾ by farmers receiving direct payments, and determined as referred to in Article 2(1), second subparagraph, point (23), of Commission Delegated Regulation (EU) No 640/2014⁽¹⁵⁾, where necessary adjusted by Member States to take into account the impact of a possible change, in particular in the definition of permanent grassland to be established by Member States in accordance with Article 4(3), point (c), of Regulation (EU) 2021/2115;
- (b) ‘total agricultural area’ means the agricultural area declared in 2018 in accordance with Article 72(1), first subparagraph, point (a), of Regulation (EU) No 1306/2013 by farmers receiving direct payments and determined as referred to in Article 2(1), second subparagraph, point (23), of Delegated Regulation (EU) No 640/2014, where necessary adjusted by Member States, in particular to take into account the impact of a possible change in the definition of agricultural areas to be established by Member States in accordance with Article 4(3) of Regulation (EU) 2021/2115.

▼M2

1a. Where the area of permanent grassland referred to in paragraph 1, second subparagraph, point (a), has decreased due to structural changes in the farming systems of a Member State caused by a significant reduction in the production of livestock resulting in a significant reduction in the need for feed and grazing of livestock in that Member State, the Member State concerned may, once in the programming period 2023-2027, adjust the reference ratio established pursuant to paragraph 1 to take into account the decrease in the size of the area of permanent grassland.

The adjustment of the area of permanent grassland referred to in the first subparagraph, shall correspond to the decrease of the area of permanent grassland which is attributable to the structural changes in the farming systems at the level at which the GAEC standard 1 is implemented in the Member State concerned.

A Member State shall assess the decrease in the size of the area of permanent grassland and the structural changes in the farming systems on the basis of a period of 5 consecutive years starting no earlier than in 2019.

⁽¹⁴⁾ 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).

⁽¹⁵⁾ Commission Delegated Regulation (EU) No 640/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance (OJ L 181, 20.6.2014, p. 48).

▼B

2. The ratio of permanent grassland shall be established each year on the basis of the areas declared for that year by the beneficiaries receiving direct payments pursuant to Title III, Chapter II, of Regulation (EU) 2021/2115 or the annual payments pursuant to Articles 70, 71 and 72 of that Regulation in accordance with Article 67(1) of Regulation (EU) 2021/2116 of the European Parliament and of the Council ⁽¹⁶⁾.

Member States may establish the ratio of permanent grassland and the reference ratio at national, regional, sub-regional, group of holdings or holding level.

3. Where it is established that the ratio referred to in paragraph 2 has decreased by more than 5 % at the level at which the GAEC standard 1 is implemented, the Member State concerned shall impose obligations at holding level to reconvert land into permanent grassland or to establish an area of permanent grassland for some or all of the farmers who have land at their disposal which was converted from permanent grassland into land for other uses during a period in the past.

However, where the area of permanent grassland in a given year is maintained, in absolute, terms within 0,5 % of the areas of permanent grassland established in accordance with paragraph 1, second subparagraph, point (a), the obligation set out in paragraph 1, first subparagraph, shall be considered to have been complied with.

▼M2

By way of derogation from the first subparagraph, Member States may decide to impose the obligations at the holding level to reconvert land to permanent grassland or to establish an area of permanent grassland only in the following cases:

- (a) where, and to the extent that, the area to be reconverted into areas of permanent grassland or on which permanent grassland is to be established in a given year exceeds the area of permanent grassland registered as agricultural area in the identification system for agricultural parcels referred to in Article 68 of Regulation (EU) 2021/2116 and not declared for the purpose of receiving support in accordance with a type of intervention provided for in Chapter II of Title III of Regulation (EU) 2021/2115 in that year by beneficiaries;
- (b) where, and to the extent that, the decrease of the ratio of permanent grassland in a given year by more than 5 %, at the level at which GAEC standard 1 is implemented, is not caused by an increase in the total agricultural area declared in that same year.

4. Paragraph 3, first subparagraph shall not apply where the decrease below the threshold of 5 % is the result of:

- (a) commitments undertaken or obligations, as referred to in Article 4 (4), points (b) and (c), of Regulation (EU) 2021/2115 due to which an agricultural activity is no longer performed on the areas in question, and which do not include plantations of Christmas trees or cultivation of crops or trees for energy production; or

⁽¹⁶⁾ 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 (OJ L 435, 6.12.2021, p. 187).

▼M2

- (b) conversion of an area of permanent grassland to other uses than agricultural activity, as defined in the CAP Strategic Plans, and the area concerned no longer constitutes agricultural area as defined in the CAP Strategic Plans.

▼B

5. For the purpose of calculating the ratio referred to in paragraph 2, areas reconverted into permanent grassland or established as permanent grassland in accordance with paragraph 3, or established as permanent grassland as part of the Member States implementation of GAEC standard 1, shall be considered as permanent grassland as of the first day of the reversion or establishment. Those areas shall be used to grow grasses or other herbaceous forage in compliance with the definition provided for in Article 4(3), point (c), of Regulation (EU) 2021/2115, at least for 5 consecutive years following the reversion or establishment, or for areas already used to grow grasses or other herbaceous forage, for the remaining number of years to reach 5 consecutive years.

TITLE VI

FINAL PROVISIONS

*Article 49***Entry into force**

This Regulation shall enter into force on the 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.

*ANNEX I***Union method for the verification of hemp varieties and the determination of the Δ 9-tetrahydrocannabinol content in hemp varieties referred to in Article 3****1. Scope**

The method set out in this Annex seeks to determine the Δ 9-tetrahydrocannabinol (hereinafter referred to as ‘THC content’ of varieties of hemp (*Cannabis sativa* L.). As appropriate, the method involves applying procedure A or B as described in this Annex.

The method is based on the quantitative determination of THC by gas chromatography (GC) after extraction with a suitable solvent.

1.1. Procedure A

Procedure A shall be used for checks on the production of hemp, where the control sample for on-the-spot checks carried out each year cover at least 30 % of the areas declared for the production of hemp in accordance with Article 4(4), second subparagraph, of Regulation (EU) 2021/2115.

1.2. Procedure B

Procedure B shall be used where a Member State introduces a system of prior approval for the cultivation of hemp, and the minimum level for the on-the-spot checks covers at least 20 % of the areas declared for the production of hemp in accordance with Article 4(4), second subparagraph, of Regulation (EU) 2021/2115.

2. Sampling*2.1. Conditions for taking the samples*

The samples shall be taken during the day following a systematic pattern to ensure that the sample is representative of the field, but excluding the edges of the crop.

2.1.1. Procedure A

In a standing crop of a given variety of hemp, a 30 cm part containing at least one female inflorescence of each plant selected shall be taken. Sampling shall be carried out during the period running from 20 days after the start of flowering to 10 days after the end of flowering.

Member States may authorise sampling to be carried out during the period from the start of flowering to 20 days after the start of flowering provided that, for each variety grown, other representative samples are taken in accordance with the first paragraph during the period from 20 days after the start of flowering to 10 days after the end of flowering.

For hemp cultivated as catch crop, in the absence of female inflorescences, the top 30 cm of the plant stem shall be taken. In that case sampling shall be carried out just before the end of the vegetation period, once the leaves begin presenting the first signs of yellowing, however no later than the onset of a forecast period of frost.

2.1.2. Procedure B

In a standing crop of a given variety of hemp, the upper third of each plant selected shall be taken. Sampling shall be carried out during the 10 days following the end of flowering or, for hemp cultivated as catch crop, in the absence of female inflorescences, just before the end of the vegetation period, once the leaves begin presenting the first sign of yellowing, but no later than the onset of a forecast period of frost. In the case of dioecious varieties, only female plants shall be taken.

2.2. Sample size

Procedure A: the sample shall comprise parts of 50 plants per field.

▼B

Procedure B: the sample shall comprise parts of 200 plants per field.

Each sample shall be placed in a fabric or paper bag, without crushing it, and be sent to the laboratory for analysis.

Member States may provide for a second sample to be collected for counter-analysis, if required, to be kept either by the producer or by the body responsible for the analysis.

2.3. *Drying and storage of the sample*

Drying of the samples shall begin as soon as possible and, in any case, within 48 hours using any method below 70 °C.

Samples shall be dried to a constant weight and to a moisture content of between 8 % and 13 %.

After drying, the samples shall be stored without crushing them at below 25 °C in a dark place.

3. **Determination of THC content**

3.1. *Preparation of the test sample*

Stems and seeds over 2 mm in size shall be removed from the dried samples.

The dried samples shall be grinded to obtain a semi-fine powder (passing through a 1 mm mesh sieve).

The powder may be stored for 10 weeks at below 25 °C in a dark, dry place.

3.2. *Reagents and extraction solution*

Reagents

— Δ^9 -tetrahydrocannabinol, pure for chromatographic purposes,

— squalane, pure for chromatographic purposes, as an internal standard.

Extraction solution

— 35 mg of squalane per 100 ml hexane.

3.3. *Extraction of THC*

100 mg of the powdered test sample shall be weighed, be placed in a centrifuge tube and 5 ml of extraction solution shall be added containing the internal standard.

The sample shall be placed in an ultrasound bath and be left for 20 minutes. It shall be centrifuged for 5 minutes at 3 000 r.p.m. and then the supernatant THC solution shall be removed. The solution shall be injected into the chromatograph and a quantitative analysis shall be carried out.

3.4. *Gas chromatography*

(a) Apparatus

— gas chromatograph with a flame ionisation detector and a split/splitless injector,

— column allowing good separation of cannabinoids, for example a glass capillary column 25 m long and 0,22 mm in diameter impregnated with a 5 % non-polar phenyl-methyl-siloxane phase.

▼B

(b) Calibration ranges

At least three points for procedure A and five points for procedure B, including points 0,04 and 0,50 mg/ml THC in extraction solution.

(c) Experimental conditions

The following conditions are given as an example for the column referred to in point (a):

- oven temperature 260 °C,
- injector temperature 300 °C,
- detector temperature 300 °C.

(d) Volume injected: 1 µl.

4. Results

The findings shall be expressed to two decimal places in grams of THC per 100 grams of analytical sample dried to constant weight. A tolerance of 0,03 g per 100 g shall apply.

- Procedure A: one determination per test sample.

However, where the result obtained is above the limit laid down in Article 4 (4), second subparagraph, of Regulation (EU) 2021/2115, a second determination shall be carried out per analysis sample and the mean value of the two determinations shall be taken as the result.

- Procedure B: the result shall correspond to the mean value of two determinations per test sample.

▼B*ANNEX II***List of non-eligible types of expenditure referred to in Article 22(2)**

PART I

In the fruit and vegetables sector, the apiculture sector, the hops sector, the olive oil and table olives sector and the other sectors referred to in Article 42, point (f), of Regulation (EU) 2021/2115

1. General production costs and, in particular, costs for (even certified) mycelium, seeds and non-perennial plants; plant protection products (including integrated control materials); fertilisers and other inputs; costs of collection or transport (internal or external); storage costs; packaging costs (including use and management of packaging), even as part of new processes; operating costs (in particular electricity, fuel and maintenance).

▼M1

2. Reimbursement of loans taken out for an intervention which started to be implemented before the beginning of the operational programme.

▼B

3. Purchase of land not built on costing more than 10 % of all the eligible expenditure on the operation concerned.
4. Investments in means of transport to be used by the beneficiary in the apiculture sector or for marketing or distribution by the producer organisation.
5. Operating costs of goods hired.
6. Expenditure linked to leasing contracts (taxes, interest, insurance costs, etc.) and operating costs.
7. Subcontracting or outsourcing contracts relating to the operations or expenditure mentioned as not eligible in this list.
8. Any national or regional taxes or fiscal levies.
9. Interest on debt except where the contribution is made in a form other than a non-repayable direct assistance.
10. Investments in shares or capital of companies if the investment represents a financial investment.
11. Costs incurred by parties other than the beneficiary, producer organisation or its members, associations of producer organisations, or their producer members, or a subsidiary, or an entity within a chain of subsidiaries within the meaning of Article 31(7), or subject to Member State's approval, by a cooperative which is member of a producer organisation.

▼M1

12. Interventions referred to in Article 11 not taking place on the holdings and/or premises of the producer organisation, association of producer organisations, or their producer members, or a subsidiary, or an entity within a chain of subsidiaries within the meaning of Article 31(7), or subject to Member State's approval, by a cooperative which is member of a producer organisation.

▼B

13. Interventions outsourced or implemented by the beneficiary, the producer organisation outside the Union, except promotion, communication and marketing type of intervention as referred to in Article 47(1), point (f), of Regulation (EU) 2021/2115.

▼B

PART II

In the wine sector

1. Day-to-day management of a vineyard
2. Protection against damage by game, birds or hail.
3. Construction of windbreaks and wind protection walls.
4. Driveways and elevators.
5. Purchase of tractors or any kind of transport vehicles.
6. Grubbing-up of infected vineyards and loss of revenue following mandatory grubbing up for health or phytosanitary reasons.

*ANNEX III***List of eligible types of expenditure referred to in Article 22(3)**

1. Specific costs for:
 - quality improvement measures,
 - biological plant protection materials (such as pheromones and predators) whether used in organic, integrated or conventional production,
 - agri-environment-climate interventions referred to in Article 12,
 - organic, integrated or experimental production, including specific costs for organic seeds and seedlings,
 - monitoring of compliance with the standards referred to in Title II of Implementing Regulation (EU) No 543/2011, with plant-health rules and with maximum level of residues.

Specific costs shall mean the additional costs, calculated as the difference between the conventional production costs and the costs actually incurred, and income foregone resulting from an action excluding additional income and costs savings.

2. Veterinary medicinal products for the treatment of beehive invaders and diseases affecting bees.
3. Costs associated with the restocking of beehives and bee breeding.
4. Purchase of machinery and equipment for the improvement of honey production and collection.
5. Administrative and personnel costs relating to the implementation of operational programmes or to the relevant interventions, including reports, studies, costs of keeping accounts and the management of accounts, compulsory charges linked to wages and salaries if borne directly by the beneficiary, subsidiaries or an entity within a chain of subsidiaries within the meaning of Article 31(7), or, subject to Member State's approval, by a cooperative which is member of a producer organisation.
6. Purchase of land not built on where purchase is necessary to carry out an investment included in the operational programme provided it costs less than 10 % of all the eligible expenditure on the operation concerned. In exceptional and duly justified cases, a higher percentage may be fixed for operations concerning environmental conservation.
7. Purchase or leasing of tangible assets, including second hand tangible assets provided they have not been purchased with Union or national support in a period of 5 years preceding the purchase or leasing within the limit of the net market value of the tangible asset.
8. Hire of physical assets where economically justified as an alternative to purchase, at the approval of the Member State.
9. For the sectors referred to in Article 42, points (a), (d), (e) and (f), of Regulation (EU) 2021/2115, investments in transport vehicles where the producer organisation duly justifies to the Member State concerned that the transport vehicle is used for transport internal to the premises of the producer organisation; and investments in additional on-the-truck facilities for cold-storage or controlled atmosphere transport.
10. Investments in shares or capital of companies contributing directly to the achievement of the goals of the operational programme.



ANNEX IV

Statement for packaging of products referred to in Article 25(3), point (a)

- Продукт, предназначен за безвъзмездно разпределяне (Делегиран регламент (ЕС) 2022/126)
- Producto destinado a su distribución gratuita [Reglamento Delegado (UE) 2022/126]
- Produkt určený k bezplatné distribuci (nařízení v přenesené pravomoci (EU) 2022/126)
- Produkt til gratis uddeling (delegeret forordning (EU) 2022/126)
- Zur kostenlosen Verteilung bestimmtes Erzeugnis (delegierte Verordnung (EU) 2022/126)
- Tasuta jagamiseks mõeldud tooted [delegeeritud määrus (EL) 2022/126]
- Προϊόν προοριζόμενο για δωρεάν διανομή [κατ'εξουσιοδότηση κανονισμός (ΕΕ) 2022/126]
- Product for free distribution (Delegated Regulation (EU) 2022/126)
- Produit destiné à la distribution gratuite [règlement délégué (UE) 2022/126]
- Proizvod za besplatnu distribuciju (Delegirana uredba (EU) 2022/126)
- Prodotto destinato alla distribuzione gratuita [regolamento delegato (UE) 2022/126]
- Produkts paredzēts bezmaksas izplatīšanai [Deleģētā regula (ES) 2022/126]
- Nemokamai platinamas produktas (Deleguotasis reglamentas (ES) 2022/126)
- Ingyenes szétosztásra szánt termék ((EU) 2022/126 felhatalmazáson alapuló rendelet)
- Prodott għad-distribuzzjoni bla hlas (Ir-Regolament Delegat (UE) 2022/126)
- Voor gratis uitreiking bestemd product (Gedelegeerde Verordening (EU) 2022/126)
- Produkt przeznaczony do bezpłatnej dystrybucji [Rozporządzenie delegowane (UE) 2022/126]
- Produto destinado a distribuição gratuita [Regulamento Delegado (UE) 2022/126]
- Produs destinat distribuirii gratuite [Regulamentul delegat (UE) 2022/126]
- Výrobok určený na bezplatnú distribúciu [delegované nariadenie (EÚ) 2022/126]
- Proizvod, namenjen za prosto razdelitev (Delegirana uredba (EU) 2022/126)
- Ilmaisjakeluun tarkoitettu tuote (delegoitu asetus (EU) 2022/126)
- Produkt för gratisutdelning (delegerad förordning (EU) 2022/126)
- Táirge lena dháileadh saor in aisce (Rialachán Tarmligthe (AE) 2022/126)



ANNEX V

Maximum amounts of support for market withdrawals referred to in Article 26(1) and (4), first subparagraph

Products	Maximum support (EUR/100 kg)	
	Free distribution	Other destinations
Cauliflowers	21,05	15,79
Tomatoes (withdrawn from 1 June to 31 October)	7,25	7,25
Tomatoes (withdrawn from 1 November to 31 May)	33,96	25,48
Apples	24,16	18,11
Grapes	53,52	40,14
Apricots	64,18	48,14
Nectarines	37,82	28,37
Peaches	37,32	27,99
Pears	33,96	25,47
Aubergines	31,2	23,41
Melons	48,1	36,07
Watermelons	9,76	7,31
Oranges	21,00	21,00
Mandarins	25,82	19,50
Clementines	32,38	24,28
Satsumas	25,56	19,50
Lemons	29,98	22,48

*ANNEX VI***Minimum requirements for withdrawal of products referred to in Article 29(2)**

1. The products shall be:
 - whole, when it applies to fresh raw products,
 - sound; products affected by rotting or deterioration such as to make them unfit for consumption shall be excluded,
 - clean, practically free from any visible foreign matter,
 - practically free from pests and damage caused by pests where applicable,
 - free of abnormal moisture,
 - free of any foreign taste or smell.
2. Products must be suitable for marketing and consumption, sufficiently developed and ripe where applicable, taking account of their normal characteristics.
3. Products must be characteristic of the variety or commercial type or quality where applicable.

▼B*ANNEX VII***Conditioning costs referred to in Article 33**

Product	Sorting and packing costs (EUR/t)
Apples	187,70
Pears	159,60
Oranges	240,80
Clementines	296,60
Peaches	175,10
Nectarines	205,80
Watermelons	167,00
Cauliflowers	169,10
Other products	201,10