Commission Implementing Regulation (EU) 2015/1831 of 7 October 2015 laying down rules for application of Regulation (EU) No 1144/2014 of the European Parliament and of the Council on information provision and promotion measures concerning agricultural products implemented in the internal market and in the third countries

COMMISSION IMPLEMENTING REGULATION (EU) 2015/1831

of 7 October 2015

laying down rules for application of Regulation (EU) No 1144/2014 of the European Parliament and of the Council on information provision and promotion measures concerning agricultural products implemented in the internal market and in the third countries

THE EUROPEAN COMMISSION,

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

Having regard to regard to Regulation (EU) No 1144/2014 of the European Parliament and of the Council of 22 October 2014 on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries and repealing Council Regulation (EC) No 3/2008[(1)], and in particular Article 4(3), the second subparagraph of Article 13(2), the second subparagraph of Article 14(1) and Article 25 thereof,

Whereas:

(1) Regulation (EU) No 1144/2014 repealed Council Regulation (EC) No 3/2008[(2)] and lays down new rules on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries. It also empowers the Commission to adopt delegated and implementing acts in that respect. In order to ensure that the new legal framework functions smoothly and applies uniformly, certain rules have to be adopted by means of such acts. Those acts should replace Commission Regulation (EC) No 501/2008[(3)] which is repealed by Commission Delegated Regulation (EU) 2015/1829[(4)].

(2) Information provision and promotion measures should not be origin-oriented. Nevertheless, pursuant to Article 4(2) of Regulation (EU) No 1144/2014, it is possible to mention the origin of the products under certain conditions. Rules should be laid down to ensure notably that the reference to origin does not undermine the main Union message of a programme.

(3) To avoid any risk of confusion in the mind of the targeted audience as to the difference between a generic campaign referring to origin and a campaign referring to specific products registered under the Union quality schemes with a protected geographical indication, reference to origin should be limited to national origin only. Nevertheless, taking into account the list of eligible schemes laid down in Article 5(4) of Regulation (EU) No 1144/2014, it should be possible to indicate origin in terms other than national origin for those specific schemes. In addition, it should be possible to mention a

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supranational origin, such as Nordic, Alpines or Mediterranean as it corresponds to a pan European common reference.

(4) Information provision and promotion measures should not be brand-oriented. Nevertheless, pursuant to Article 4(1) of Regulation (EU) No 1144/2014, it is possible to mention the brands of the products during certain operations and under certain conditions. The display of brands should be limited to demonstrations and tastings, namely to activities specifically designed to increase sales, and to the corresponding information and promotion material displayed during those specific activities. Rules should be established to ensure that each brand is equally visible and its graphic presentation is smaller than the presentation of the main Union message of the campaign. In order to ensure that the non-brand-oriented nature of the measures remains unchanged, rules should be laid down to ensure that several brands are displayed, except in duly justified circumstances, and that the surface dedicated to brands is limited to a maximum percentage of the area of communication.

(5) Regulation (EU) No 1144/2014 allows proposing organisations to implement certain parts of their programmes. The rules for the application of those provisions should be laid down.

(6) Simple programmes are to be implemented in shared management between the Member States and the Union in accordance with Regulation (EU) No 1306/2013 of the European Parliament and of the Council[(5)], while multi programmes are to be financed under direct management rules in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[(6)]. As the same proposing organisation could have both simple and multi programmes, the implementation rules for both programmes should differ as little as possible. To that end, simple programmes should be subject to rules that are equivalent to those provisions of Regulation (UE, Euratom) No 966/2012 concerning grants which apply to multi- programmes such as, for example, the absence of a requirement to lodge a security to ensure satisfactory performance of the contract.

(7) Member States are responsible for the proper implementation of the simple programmes selected by the Commission. Provision should be made for the designation of the national authorities responsible for implementing this Regulation. In order to ensure uniform conditions, the rules concerning conclusion of contracts for the implementation of the selected simple programmes should be laid down. To that end, a model contract should be provided to the Member States by the Commission and a reasonable time limit for the conclusion of contracts should be set. However, in view of the different types of measures that may be provided for within a programme, flexibility with regard to the starting date of the implementation of the programme should be provided.

(8) In the interest of sound financial management, proposing organisations and implementing bodies should be obliged to keep records and other supporting documentation necessary to prove the correct implementation of the programme and the eligibility for Union funding of the costs declared.

(9) Member States should control the implementation of simple programmes in accordance with Regulation (EU) No 1306/2013. They should also be required to approve the

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selection of the implementing body before concluding the contract with the proposing organisation concerned and to check any application for payments before any payment is made. Save for an application for a payment of an advance, all applications for payment should include a financial report declaring and specifying the eligible costs incurred by the proposing organisation, a report on technical execution of the programme and, in addition an evaluation report for applications for the payment of the balance.

(10) With a view to simplification and to reducing the administrative burden, the periods to which the interim reports and the corresponding payment applications relate should be set to one year. Moreover, a certificate on the financial statements, issued by an independent and qualified auditor, should be submitted when the reimbursement for certain amounts is requested. The certificate should provide evidence to the Member States as regards the eligibility of the costs declared.

(11) In order to enable Member States to verify if the material produced in the context of the implementation of a programme complies with Union law as set out in Article 14(1) of Regulation (EU) No 1144/2014, and in particular that provisions concerning the main Union message, mention of origin and display of brands have been applied, a provision requiring the submission of the material used, including the visuals, to the Member State, should be laid down.

(12) In order to provide proposing organisations with a float, arrangements for the payment of advances should be laid down. To protect the Union's financial interests effectively, payment of the advance should be subject to a security. This security should remain in force until the payment of the balance when the advance is cleared. Since proposing organisations established in the Member States receiving financial assistance may face difficulties providing a security for the entire amount that may be advanced, specific provision should be laid down to allow them to get advances in two parts.

(13) In the interests of sound financial management, provisions should be laid down requiring that advances and intermediate payments remain below the total Union contribution with a safety margin.

(14) In the light of experience, the content of on-the-spot checks to be carried out by the Member States and in particular their frequency, scope and location should be determined. It is thus appropriate to require that each programme should be subject to an on-the-spot check at least once during its implementation. Taking into account the fact that information and promotion activities are implemented at different times and are often of limited duration and the fact that certain programmes are implemented outside the Member State of origin of the proposing organisation or outside the Union, on-the-spot-checks should be carried out in the premises of the proposing organisations and, if appropriate, in the premises of the implementing body.

(15) Interest rate in case of undue payments should be aligned to the corresponding interest rate applicable to multi programmes.

(16) In order to assess the effectiveness and efficiency of information and promotion programmes, provisions should be laid down requiring appropriate monitoring and

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evaluation of the programmes as well as of the overall performance of the promotion policy by both proposing organisations and Member States.

(17) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation lays down implementing rules for the application of Regulation (EU) No 1144/2014 as regards the visibility of origin and brands in simple and multi programmes as well as rules under which a proposing organisation may be authorised to implement certain parts of a simple programme.

It also lays down specific rules for the conclusion of contracts, management, monitoring and controls for simple programmes and a system of indicators for the assessment of the impact of information and promotion programmes.

CHAPTER II

COMMON PROVISIONS FOR SIMPLE AND MULTI PROGRAMMES

SECTION 1

Visibility of origin

Article 2

General requirements for mention of the origin in all information and promotional material

1 The main message of the programme shall be a Union message and shall not focus on a specific origin.

2 Any mention of origin shall fulfil the following cumulative conditions:

a it shall not amount to a restriction of the free movement of agricultural and food products in breach of Article 34 of the Treaty on the Functioning of the European Union;

b it shall not encourage consumers to buy domestic goods solely by virtue of their origin and shall refer to the particular properties of the product rather than the sole origin; and

c it shall complement the main Union message.

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3 The main Union message of the programme shall not be obscured by material related to the origin of the product, such as pictures, colours, symbols or music. The mention of origin shall appear in a separate area from that devoted to the main Union message.

4 The mention of origin on information and promotional material shall be limited to visual material. No mention of the origin shall be made in audio material.

Article 3

Specific mention of the origin on information and promotional material as referred to in points (a) and (b) of Article 4(2) of Regulation (EU) No 1144/2014

1 The mention of origin on information and promotional material, as referred to in points (a) and (b) of Article 4(2) of Regulation (EU) No 1144/2014, shall be limited to the national origin, namely the name of the Member State, or to a common supra-national origin. The mention of origin may be explicit or implicit.

2 The conditions set out in points (a) and (b) of Article 4(2) of Regulation (EU) No 1144/2014 shall be complied with and account shall be taken of the prominence of the text or symbol, including pictures and general presentation, which refers to the origin as compared with the importance of the text or symbol which refers to the main Union message of the programme.

Article 4

Mention of the origin on information and promotional material referring to schemes eligible under points (c) and (d) of Article 5(4) of Regulation (EU) No 1144/2014

1 Information provision and promotion measures mentioning schemes eligible under point (c) of Article 5(4) of Regulation (EU) No 1144/2014 may mention the name of the outermost regions in the related graphic symbols, provided that the conditions set out in Commission Delegated Regulation (EC) No 179/2014[(7)] are fulfilled and in the related visual materials provided that they fulfil the conditions set out in points (a) and (b) of Article 4(2) of Regulation (EU) No 1144/2014.

2 By way of derogation from Article 3(1), information provision and promotion measures mentioning schemes eligible under point (d) of Article 5(4) of Regulation (EU) No 1144/2014 which refer to the origin in their name may mention that specific origin, provided that they fulfil the conditions set out in points (a) and (b) of Article 4(2) of Regulation (EU) No 1144/2014.

SECTION 2

Visibility of brands

Article 5

General requirements

1 Brands as referred to in Article 4 of Regulation (EU) No 1144/2014 shall be understood as trade-marks as defined in Articles 4 and 66 of Council Regulation (EC) No 207/2009[(8)] or in Article 2 of Directive 2008/95/EC of the European Parliament and of the Council[(9)].