

Info note

Control measures for hemp

Status of the EU legislation

You can find below a table summarising the changes foreseen in the EU legislation as regards to the controls on the fields for hemp. Please, note that the table mirrors a provisional view on the issue. Further information will be shared with members as soon as the Implementing Regulation will be published.

References:

*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*
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R0126>

*Consolidated text: Commission Delegated Regulation (EU) No **639/2014** of 11 March 2014 supplementing Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and amending Annex X to that Regulation*
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014R0639-20190101>

*Consolidated text: Commission Implementing Regulation (EU) No **809/2014** of 17 July 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance*
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014R0809-20210401>

New legislation Covering from 2023 onwards	Existing legislation In force and covering 2022	NOTES
Delegated Regulation 2022/126	Delegated Regulation 639/2014	
Article 2 <i>Additional eligibility requirements</i>	Article 9 <i>Hemp</i>	
<p>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:</p> <p>(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;</p> <p>(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;</p>	<p>1. For the purposes of Article 32(6) of Regulation (EU) No 1307/2013, the eligibility of areas used for the production of hemp shall be subject to the use of seed of the varieties 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. The seed shall be certified in accordance with Council Directive 2002/57/EC or in accordance with Article 10 of Commission Directive 2008/62/EC in the case of conservation varieties.</p>	

<p>(c) they are certified in accordance with Council Directive 2002/57/EC or in accordance with Article 10 of Commission Directive 2008/62/EC in the case of conservation varieties.</p>		
<p>Article 3 <i>Verification of hemp varieties and quantitative determination of THC content</i></p>		
<p>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.</p>	<p>2. Member States shall establish the system for determining the Δ^9-tetrahydrocannabinol content (hereinafter referred to as 'THC content') in hemp varieties, which allows them to apply the method set out in Annex III.</p>	
<p>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.</p>	<p>3. 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.</p>	

<p>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.</p>	<p>4. If an average of all the samples of a given variety exceeds the THC content as laid down in Article 32(6) of Regulation (EU) No 1307/2013, Member States shall use procedure B as described in Annex III 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 as laid down in Article 32(6) of Regulation (EU) No 1307/2013.</p>	
<p>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.</p>	<p>5. If for the second year the average of all the samples of a given variety exceeds the THC content as laid down in Article 32(6) of Regulation (EU) No 1307/2013, the Member State shall notify the Commission of the request for authorisation to prohibit the marketing of such variety in accordance with Article 18 of Directive 2002/53/EC. Such notification shall be sent in accordance with Commission Regulation (EC) No 792/2009 by 15 January of the following claim year at the latest. Starting from that claim year, the variety covered by that request shall not be eligible for direct payments in the Member State concerned.</p>	<p><i>A Member State will have the obligation to communicate to the Commission the name of the variety exceeding the THC limits (i.e. 0,3%) for the second year in a row. This variety will no more be eligible for direct payments but <u>only</u> in that MS. The prohibition of the marketing of that variety is no more foreseen.</i></p>

<p>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.</p>		<p><i>Farmers will need to be informed prior to the deadline for the submission of the single application on the varieties that are ineligible for direct payments.</i></p>
<p>Article 4 <i>Catch crop</i></p>		
<p>For the purposes of this Chapter, 'hemp cultivated as catch crop' means crop of hemp sown after 30 June of a given year.</p>	<p>6. For the purposes of this Regulation, 'hemp cultivated as catch crop' means crop of hemp sown after 30 June of a given year.</p>	
<p>Article 5 <i>Cultivation requirements</i></p>		
<p>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</p>	<p>7. 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</p>	

<p>growing conditions in accordance with local practice at least until the end of the vegetation period.</p> <p>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.</p>	<p>practice at least until the end of the vegetation period.</p> <p>However, Member States may authorise hemp to be harvested after flowering has begun but before the end of the 10-day period after the end of flowering, provided that the inspectors indicate which representative parts of each plot concerned must 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 III.</p>	
<p>New implementing regulation XXX Draft still to be published</p>	<p>Implementing Regulation 809/2014</p>	
	<p>Article 17 <i>Specific requirements pertaining to aid applications for area-related aid schemes and payment claims for area-related support measures</i></p>	
	<p>7. For areas used for the production of hemp in accordance with Article 32(6) of Regulation (EU) No 1307/2013, the single application shall contain:</p> <p>(a) all information required for the identification of the parcels sown with</p>	<p><i>Same rules should apply also from 2023. No changes are foreseen.</i></p>

	<p>hemp, indicating the varieties of seed used;</p> <p>(b) an indication as to the quantities of the seeds used (kg per hectare);</p> <p>(c) the official labels used on the packaging of the seeds in accordance with Council Directive 2002/57/EC (5), and in particular Article 12 thereof, or any other document recognised as equivalent by the Member State; or, in the case of conservation varieties certified in accordance with Commission Directive 2008/62/EC (6), the supplier's labels or the printed or stamped notice used on the packaging of the seeds of conservation varieties as referred to in Article 18 of that Directive.</p> <p>By way of derogation from point (c) of the first subparagraph, where sowing takes place after the final date for submitting the single application, the labels shall be submitted by 30 June at the latest. However, for hemp cultivated as catch crop, the labels shall be submitted by a date to be fixed by the Member States but not later than 1 September. Where the labels also have to be submitted to other national authorities, the Member States may provide for those labels to be returned to the beneficiary once they have been</p>	
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	submitted in accordance with that point. The labels returned shall be marked as used for an application.	
	Article 30 <i>Control rate for area-related aid schemes other than the payment for agricultural practices beneficial for the climate and environment</i>	
	For area-related aid schemes other than the payment for agricultural practices beneficial for the climate and the environment in accordance with Chapter 3 of Title III of Regulation (EU) No 1307/2013 (hereinafter referred to as 'the greening payment'), the control sample for on-the-spot checks carried out each year shall cover at least: (g) 30 % of the areas declared for the production of hemp in accordance with Article 32(6) of Regulation (EU) No 1307/2013;	<i>The rate of the areas to be controlled is now established in annex to the regulation. See below.</i>
	Article 36 <i>Reduction of the control rate</i>	
	6. By way of derogation from Article 30(g), where a Member State introduces a system of prior approval for the cultivation of hemp, the minimum level of on-the-spot checks may be reduced to	<i>The rate of the areas to be controlled is now established in annex to the regulation. See below.</i>

	20 % of the areas declared for the production of hemp as referred to in Article 32(6) of Regulation (EU) No 1307/2013.	
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<p>ANNEX I <i>Union method for the verification of hemp varieties and the determination of the Δ9-tetrahydrocannabinol content in hemp varieties referred to in Article 3</i> NEW and applicable from 2023</p>	<p>ANNEX III <i>Union method for the quantitative determination of the Δ9-tetrahydrocannabinol content in hemp varieties</i> OLD but covering 2022</p>
<p>1. Scope The method set out in this Annex seeks to determine the Δ9-tetrahydrocannabinol (hereinafter referred to as 'THC content' of varieties of hemp (<i>Cannabis sativa</i> 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.</p>	<p>1. Scope The method set out in this Annex seeks to determine the Δ9-tetrahydrocannabinol (hereinafter referred to as THC) content of varieties of hemp (<i>Cannabis sativa</i> 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.</p>
<p>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</p>	<p>1.1. Procedure A Procedure A shall be used for checks on the production of hemp as referred to in Article 32(6) of Regulation (EU) No 1307/2013 and Article 30(g) of Commission Implementing Regulation (EU) No 809/2014.</p>

<p>Article 4(4), second subparagraph, of Regulation (EU) 2021/2115.</p>	
<p>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.</p>	<p>1.2. Procedure B Procedure B shall be used in cases as referred to in Article 36(6) of Implementing Regulation (EU) No 809/2014.</p>
<p>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.</p>	<p>2. Sampling 2.1. 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.</p>
<p>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.</p>	<p>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 subparagraph 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.</p>

<p>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.</p>	<p>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.</p>
<p>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.</p>	<p>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.</p>
<p>2.2. Sample size Procedure A: the sample shall comprise parts of 50 plants per field. 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.</p>	<p>2.2. Sample size Procedure A: the sample shall comprise parts of 50 plants per field. 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. The Member State may provide for a second sample to be collected for counteranalysis, if required, to be kept either by the producer or by the body responsible for the analysis.</p>
<p>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 %.</p>	<p>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 %.</p>

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

<p>3.4. Gas chromatography</p> <p>(a) Apparatus</p> <ul style="list-style-type: none"> — 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. <p>(b) Calibration ranges</p> <p>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.</p> <p>(c) Experimental conditions</p> <p>The following conditions are given as an example for the column referred to in point (a):</p> <ul style="list-style-type: none"> — oven temperature 260 °C, — injector temperature 300 °C, — detector temperature 300 °C. <p>(d) Volume injected: 1 µl.</p>	<p>3.4. Gas chromatography</p> <p>(a) Apparatus</p> <ul style="list-style-type: none"> — 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. <p>(b) Calibration ranges</p> <p>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.</p> <p>(c) Experimental conditions</p> <p>The following conditions are given as an example for the column referred to in (a):</p> <ul style="list-style-type: none"> — oven temperature 260 °C, — injector temperature 300 °C, — detector temperature 300 °C. <p>(d) Volume injected: 1 µl.</p>
<p>4. Results</p> <p>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.</p> <p>- 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.</p>	<p>4. Results</p> <p>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.</p> <p>- Procedure A: one determination per test sample. However, where the result obtained is above the limit laid down in Article 32(6) of Regulation (EU) No 1307/2013, a second determination shall be carried out per analysis sample and the mean value of the two determinations shall be taken as the result.</p>

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

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