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The Director

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**BY E-MAIL with acknowledgment
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Representation**

Please state the following references in your reply:

CEB/2024/050/GR/RL304
CEB/2024/050/GR/RLF

**Subject: Clearance of accounts decision for financial year 2023 – Paying
Agency GR01 - Payment and Control Agency for Guidance and
Guarantee Community Aids (OPEKEPE)**

**Articles 51 and 52 of Regulation (EU) No 1306/2013 of the European
Parliament and of the Council and Article 53 of Regulation (EU)
2021/2116 of the European Parliament and of the Council**

**Communication pursuant to Articles 33 and 34(2) of Commission
Implementing Regulation (EU) No 908/2014 and Article 35 of
Commission Implementing Regulation (EU) 2022/128**

**Permanent Representation of Greece to the
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Ms Aikaterini Tsakoumi
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**Payment and Control Agency for Guidance and
Guarantee Community Aids (OPEKEPE)**
Mr Kyriakos Babasidis
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Dear Madam, Sirs,

1. THE CLEARANCE OF ACCOUNTS DECISION FOR FINANCIAL YEAR (FY) 2023

The clearance of accounts decision for FY2023, pursuant to Article 51 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council and Article 53 of Regulation (EU) 2021/2116 of the European Parliament and of the Council, shall cover the completeness, accuracy and veracity of the annual accounts submitted and, by virtue of Article 33(1) of Commission Implementing Regulation (EU) No 908/2014 and Article 35(1) of Commission Implementing Regulation (EU) 2022/128, shall determine the amount of the expenditure effected in each Member State during FY2023 which the Commission recognises as chargeable to the Funds. The decision will be based on information in the possession of the Directorate General for Agriculture and Rural Development (DG AGRI) at the date of drafting of this communication.

Pursuant to Article 33(3) of Regulation (EU) No 908/2014 and Article 35(3) of Regulation (EU) 2022/128, the results of the verifications by DG AGRI of the information supplied are notified in the Appendices.

This letter confirms that the accounts of Paying Agency GR01 – Payment and Control Agency for Guidance and Guarantee Community Aids (OPEKEPE) will be proposed for clearance before 31 May 2024 for the EAGF and the EAFRD for FY2023.

The financial clearance is without prejudice to the content of the implementing acts subsequently adopted pursuant to Article 52 of Regulation (EU) No 1306/2013 or Articles 54 or 55 of Regulation (EU) 2021/2116.

2. ASSESSMENT OF THE CERTIFICATION BODY'S WORK ON THE ACCOUNTS AND ACCREDITATION

The Certification Bodies need to provide an opinion in accordance with Article 9 of Regulation (EU) No 1306/2013 and Article 12 of Regulation (EU) 2021/2116.

Appendix 1 lists the observations and recommendations arising from the abovementioned financial clearance exercise as regards the Certification Body's work related to audit objective 1 (financial clearance) and the Paying Agency's compliance with the accreditation criteria.

On the basis of the opinion of the Certification Body and the assessment of DG AGRI, any observations in this respect requiring the specific attention of the Member State authorities, are included in Point 3 and Appendix 2 of this letter.

Furthermore, Appendix 5 of this letter describes the reasons why DG AGRI considers it necessary to open the procedure as provided for in Article 34 of Regulation (EU) No 908/2014 and Article 52 of Regulation (EU) No 1306/2013.

3. OBSERVATIONS MADE WITH REGARD TO THE PAYING AGENCY

In general, DG AGRI supports the recommendations made by the Certification Body, and the Paying Agency is requested to undertake the necessary remedial actions to implement the recommendations put forward by the Certification Body. Appendix 2 lists the observations that are considered to be of particular importance.

In accordance with Article 2 of Regulation (EU) 2022/128, it is recalled that it is the responsibility of the Competent Authority to maintain the Paying Agencies for which it is responsible under constant supervision and to follow up on any identified deficiencies.

4. REDUCTIONS TO BE MADE IN THE CLEARANCE DECISION FOR FY2023 DUE TO NON-RESPECT OF PAYMENT DEADLINES, EXCEEDING THE CEILINGS AND LEVIES

Concerning reductions due to overrun of ceilings for **EAGF**, please refer to DG AGRI letters Ares(2023)3881743 of 5.6.2023 and Ares(2023)8221171 of 1.12.2023. The final total amount to be confirmed in the financial clearance decision under Article 51 of Regulation (EU) No 1306/2013 and Article 53 of Regulation (EU) 2021/2116 is EUR 204 395.29. There was no reduction in the monthly payments. Therefore, the net financial impact to be corrected in the financial clearance decision is **EUR 204 395.29**.

Concerning reductions due to non-respect of payment deadlines for **EAFRD**, please refer to DG AGRI letter Ares(202)689894 of 31.1.2024 and your reply Ref. No 14553 of 13.3.2024. The final total amount to be confirmed and corrected in the financial clearance decision under Article 51 of Regulation (EU) No 1306/2013 and Article 53 of Regulation (EU) 2021/2116 is **EUR 405 089.09**.

If your authorities do not agree with the amount to be confirmed in the financial clearance decision and would like to submit additional arguments not already presented in your reply above, you may request a conformity clearance procedure, under Article 52 of Regulation (EU) No 1306/2013, in reply to this letter. DG AGRI will only launch a conformity clearance procedure on the explicit and justified request by the Member State.

5. EXCESS OF FINANCING PLAN AT MEASURE LEVEL

Pursuant to Article 36(3)(b) of Regulation (EU) No 1306/2013, in conjunction with Article 23(2) of Regulation (EU) 908/2014, an amount of EUR 32 642 119.30 was capped during FY 2023 for overrun of the financing plan at measure level for rural development programme 2014GR06RDNP001.

When adopting the clearance of accounts decision under Article 51 of Regulation (EU) No 1306/2013, the Commission takes into account this capped amount.

6. FINANCIAL CONSEQUENCES OF ARTICLE 54 OF REGULATION (EU) NO 1306/2013

Article 33(1) second and third subparagraphs of Regulation (EU) No 908/2014 provide that the financial clearance decision shall determine the amounts to be charged to the EU and to the Member State concerned pursuant to Article 54 of Regulation (EU) No 1306/2013.

In light of the above, and in accordance with the table provided by your authorities under Annex II of Regulation (EU) No 908/2014 on the recovery procedures undertaken in response to irregularities, the financial consequences of non-recovery to be borne by the Member State pursuant to Article 54 of Regulation (EU) No 1306/2013 are set out in Appendix 3.

7. ACCREDITATION ISSUES

Please find in Appendix 4 the observations and requests for further information resulting from this enquiry.

The financial risk resulting from the deficiencies identified in the Paying Agency's internal control system and its compliance with the accreditation criteria is followed up under various DG AGRI conformity enquiries.

DG AGRI takes the view that as regards the management of EAGF and EAFRD by GR01 - OPEKEPE, one or more of the accreditation criteria set out in Annex I to Commission Delegated Regulation (EU) 2022/127 are no longer respected or are so seriously deficient as to affect the agency's ability to fulfil the tasks set out in Article 9(1) of Regulation (EU) 2021/2116. DG AGRI is of the opinion that the conditions of Article 2(3) of Regulation (EU) 2022/128 are met and that, consequently, **your Competent Authority should place the agency's accreditation under probation with immediate effect and draw up a plan** to remedy the identified deficiencies within a period to be determined according to the severity of the problem, which shall not exceed 12 months from the date on which the accreditation is put under probation. In duly justified cases, the Commission may, upon your request, grant an extension of that period. The lack of adequate, effective, and immediate corrective actions may result in the withdrawal of the accreditation of OPEKEPE, as per Article 2(6) of Regulation (EU) 2022/128.

To follow up the assessment of the Competent Authority and the corrective actions taken and planned to be taken, DG AGRI invites the Competent Authority (with the possible participation of the Paying Agency and Certification Body if considered necessary) to a technical meeting to be organised **via videoconference on 28 May 2024, at 14:00**.

8. CORRECTIVE MEASURES AND POTENTIAL FINANCIAL IMPACT

The financial errors amounting to EUR 12 060 identified by the Certification Body with regard to EAFRD Non-IACS, reported in chapter 2.14.2 of the report will have to be corrected by the Paying Agency. In this context, the Certification Body should confirm that the Paying Agency has taken the required corrective measures, including measures relating to Article 59(1)(c) and (d) of Regulation (EU) 2021/2116, and that the amounts involved have been re-credited to the Fund.

This letter is also written pursuant to Article 34 of Regulation (EU) No 908/2014.

DG AGRI takes the view that, as regards GR01 – OPEKEPE, your authorities have not complied with the requirements of the Regulations and considers proposing the exclusion from EU funding of an amount of **EUR 6 059 364.12** financed by the **EAGF** and **EUR 2 190 965.19** by the **EAFRD**, in accordance with Article 52 of Regulation (EU) No 1306/2013. The calculation of this amount is detailed in Appendix 5. Please inform DG AGRI of the corrective measures already taken and those envisaged, together with a timetable for their implementation.

Moreover, DG AGRI takes the view that the implementation of debt management of GR01 - OPEKEPE was not in conformity with EU rules, and that the corrective measures as set out in Appendix 5 are necessary to ensure future compliance with those requirements.

In these circumstances, DG AGRI considers proposing the exclusion from EU funding of part of the expenditure financed by the EAGF and the EAFRD in accordance with Article 52 of Regulation (EU) No 1306/2013.

On the basis of DG AGRI findings, weaknesses in the debt management of the Paying Agency were identified. Article 12(6) and (7) of Commission Delegated Regulation (EU) No 907/2014 and the Guidelines on the calculation of financial corrections in the framework of the conformity and financial clearance of accounts procedures - C(2015) 3675 of 8.6.2015, would indicate a flat-rate correction of **at least 10 %**. More details are provided in Appendix 5.

The scope of the correction shall be all debts as reported in Annex II of the annual accounts.

The above flat rate is provisional and corresponds to the findings at this stage of the procedure. The shortcomings identified will continue to form the basis for financial corrections to be applied in respect of expenditure effected after the period covered by this audit, until the deficiencies identified cease to have a negative impact on the legality and regularity of the expenditure.

In the event that your national authorities do not agree with the findings and provisional conclusion, your reply should clearly substantiate with factual elements the reasons why your authorities consider the findings unfounded or DG AGRI's provisional conclusion as regards the financial consequences to be overstated.

In this context, your authorities may submit a more precise calculation of the amounts to be excluded from Union financing. Please note that this information should be provided at the early stages of the conformity clearance procedure, preferably in your reply to this letter or at the latest in your reply to the minutes of the bilateral meeting and should comply with the criteria established in Article 12(2) to (5) of Regulation (EU) No 907/2014.

Your reply to this letter should be sent to DG AGRI within two months of receipt of this communication in your national language. In justified cases, DG AGRI may, upon reasoned request of the Member State, authorise an extension by a maximum of two months. The request shall be addressed to the Commission before the expiry of that period, as provided in Article 34(2) of Regulation (EU) No 908/2014.

According to Article 34(2) of Regulation (EU) No 908/2014, a bilateral meeting shall be scheduled within five months after expiry of the period for reply by the Member State. In order to discuss all aspects relating to this matter in detail and to try to reach agreement on the measures to be taken, on the evaluation of the gravity of the infringement and on the financial damage to the EU budget, you are invited to a bilateral meeting to be held **via videoconference on 25 November 2024, at 09:30**. Should you consider that a bilateral meeting is not required, you are requested to notify DG AGRI accordingly.

DG AGRI would like to draw your attention to the fact that data collected during the audit may include information relating to an identified or identifiable natural person (“data subject”). Such information could be stored in DG AGRI’s audit filing system. Regulation (EU) 2018/1725 (OJ L 295, 21.11.2018, p. 39) of the European Parliament and of the Council, applicable to Union institutions, and Regulation (EU) 2016/679 (OJ L 119, 4.5.2016, p. 1), applicable to Member States, protect the right to privacy of natural persons with respect to the processing of personal data. In order to inform your authorities of your rights in the context of this audit, please find enclosed to this letter *Information note on Protection of Personal Data collected by DG Agriculture and Rural Development’s audit units* (**Appendix 6**).

Mr Vincent LY-SUNNARAM of DG AGRI Unit H.4 Assurance and financial audit (e-mail: Vincent.LY-SUNNARAM@ec.europa.eu) is available for further information. Please send your official reply to this letter to the functional mailbox of the unit: AGRI-FINANCIAL-AUDIT@ec.europa.eu.

The translation of this letter into your national language is under preparation.

Yours faithfully,



Marie BOURJOU

Enclosures: Appendix 1 – Observations made with regard to the Certification Body
Appendix 2 – Observations made with regard to the Paying Agency
Appendix 3 – Clearance of irregularity cases
Appendix 4 – Accreditation criteria no longer respected or seriously deficient
Appendix 5 – Corrective measures and potential financial impact
Appendix 6 – Protection of Personal Data

Appendix 1

Observations made with regard to the Certification Body

1. OBSERVATIONS RELATED TO FINANCIAL CLEARANCE

- The purpose of audit objective 1 is to check the procedures followed by the Paying Agency after the payments have been authorised, to give assurance on the functioning of the payment and accounting procedures of the Paying Agency. Therefore, for audit objective 1 and the substantive testing on operational transactions, only errors regarding the payments and accounting procedures should be reported and considered for the audit opinion. The Certification Body should consider performing the necessary evaluations for audit objective 1 to conclude on the correct basis.

- For the substantive testing on debts, for EAGF and EAFRD, 11 tests were performed on Annex III. DG AGRI calculated that, as suggested in Guideline 2, at least 32 tests should have been carried out per population. For FY2023, DG AGRI found specific issues regarding the debts in Annex II, as described in Appendices 2 and 5 of this letter. Annexes II and III should not have been merged for sampling purposes, as the procedures and the risks associated with those annexes are different. For FY2023, the Certification Body did thus not perform adequate and sufficient testing on Annexes II and III. As long as the deficiencies reported in Appendices 2 and 5 of this letter persist, the Certification Body should not merge the population from Annexes II and III for its substantive testing.

- As mentioned in Appendices 2 and 5 of this letter, DG AGRI identified delays in the recovery procedure of undue payments (irregularities to be reported in the Annex II table as per Regulation (EU) No 908/2014) in the framework of Article 54(1) of Regulation (EU) No 1306/2013 concerning the timely launch of recovery orders. The Certification Body should take into account the risk of late initiation of recovery orders (time limit of 18 months provided by Article 54(1) of Regulation (EU) No 1306/2013 (for "new cases") or 12 months provided by Articles 32(4)(a) and 33(5)(a) of Council Regulation (EC) No 1290/2005 (for "old cases")) in its risk assessment for FY2024.

- As regards the reconciliation between the annual accounts and the monthly and quarterly declarations of expenditure for EAGF and EAFRD, the Certification Body should report on its own conclusion clearly substantiated by its analysis and thus it should explain more thoroughly the reported differences, especially the ones resulting from cut-off errors. Making reference only to the difference-explanation codes as submitted by the Paying Agency is not sufficient as it does not provide any assessment of the underlying transactions in relation to the reported differences. Therefore, the Certification Body should ensure that the differences and the amounts wrongly declared to the Commission are clearly and explicitly explained in its future annual certification reports.

- The Certification Body should ensure that the total net expenditure declared by the Paying Agency in the accounts for EAFRD is confirmed in the audit opinion, as indicated in the template of the audit opinion specified in Guideline 3.

2. OBSERVATIONS RELATED TO THE INTERNAL CONTROL SYSTEM OF THE PAYING AGENCY AND ITS COMPLIANCE WITH THE ACCREDITATION CRITERIA

- In its future certification reports, the Certification Body should provide more detailed information about the Paying Agency's compliance with the accreditation criteria, with specific emphasis on the control areas that are potentially deficient and for which corrective actions were put in place.

Appendix 2

Observations made with regard to the Paying Agency

1. OBSERVATIONS RELATED TO FINANCIAL CLEARANCE

- During the reconciliation of Annex II of Regulation (EU) No 908/2014, DG AGRI noted a difference between the closing balance of FY2022 and the opening balance of FY2023. The difference was subsequently clarified. However, the Paying Agency should ensure that the transactions in Annex II are reported as explained in Guideline 5, according to which any adjustment (+ or -) resulting from the revision of the amount to be recovered in financial year n-1 is to be indicated through the column(s) for correction.

- Regarding the debts 644397 and 643918, the first control report was established before the date reported in column “W” of Annex II (17.10.2021). As explained in Guideline 5 on debt management and reporting⁽¹⁾, in column W, the date to be considered is the one of the first document, in the chronology of the case, stating that an irregularity has taken place. The control report to be reported in column W, should be approved. According to Article 54(1) of Regulation (EU) No 1306/2013, from this date, the Paying Agency has 18 months to issue the recovery request. Regarding one of the debts, DG AGRI considers that the timelapse to establish a final control report jeopardized the recovery proceedings. The Greek authorities should identify similar cases, and for all those cases, in the next certification report, provide the opinion of the Certification Body on the emission of the approved control reports, and on the management of the related recovery proceedings.

- Recovered amounts for EARFD 2007-2013 declared in the quarterly declarations submitted in SFC2021, automatically appear on the Technical Assistance Budget Code as a negative amount. Any differences in the expenditure declared in the annual declaration for any of the budget lines which were the basis for the calculation of the Technical Assistance on a quarterly basis, lead to a different amount of the Technical Assistance in the annual declaration (compared to the quarterly declaration). This adjustment in the Technical Assistance amount in the annual declaration is not provided by SFC2021 automatically when uploading the data.

Therefore, the Paying Agency should ensure that the Technical Assistance amount included in the annual declaration is adjusted accordingly. In the differences explanation file, explanations on the differences relating to Technical Assistance should also be provided, using for example the codes for cut-off errors B04 and B05 or code B16 (Difference due to co-financing rate in Quarterly Declaration). These differences explanations need to be confirmed by the Certification Body, as it is the case for any type of difference.

2. NOTIFICATION OF IRREGULARITIES

DG AGRI would like to draw the Greek authorities’ attention to the updated legal basis related to the obligation to report irregularities over EUR 10 000 in the Irregularity Management System (IMS). Please refer to Commission Delegated Regulation (EU) 2024/205 and Commission Implementing Regulation (EU) 2024/206. The main requirements have not changed compared to the past but the new Regulations might require some updates of internal procedures in this regard.

⁽¹⁾ Reference Ares(2023)1637881 dated 7.3.2023

Appendix 3

Clearance of irregularity cases

Regulation (EU) No 1306/2013 provides for a system of financial responsibility for irregularities in the absence of total recovery. A procedure is established in Article 54 of the Regulation that permits the Commission to safeguard the interests of the EU budget by deciding on a partial charging to the Member State concerned of unduly paid sums that are not recovered within reasonable deadlines ⁽²⁾. Article 33(1) second and third subparagraphs of Regulation (EU) No 908/2014 provide that the financial clearance decision shall determine the amounts to be charged to the EU and to the Member State concerned pursuant to Article 54 of Regulation (EU) No 1306/2013.

On the basis of the information provided by the Member States pursuant to Article 29 of Regulation (EU) No 908/2014 for FY2023, the financial responsibility between the Commission and the Member State is established as follows for the EAGF and the EAFRD:

Cases where recovery is subject to administrative procedures:

- EAGF/TRDI cases from FY2019 are cleared by applying Article 54(2) of Regulation (EU) No 1306/2013 (50% Member State budget);
- EAGF/TRDI irrecoverable cases from FYs 2019-2023 are cleared by applying Article 54(3) of Regulation (EU) No 1306/2013 (100% EU budget).
- EAFRD 2007-2013 programming period cases from FY2019 are cleared by applying Article 54(2) of Regulation (EU) No 1306/2013 (50% Member State budget);
- EAFRD 2007-2013 programming period irrecoverable cases from FYs 2007-2023 are cleared by applying Article 54(3) of Regulation (EU) No 1306/2013 (100% EU budget).
- EAFRD 2014-2020 programming period cases from FY2019 are cleared by applying Article 54(2) of Regulation (EU) No 1306/2013 (50% Member State budget);
- EAFRD 2014-2020 programming period irrecoverable cases from FYs 2016-2023 are cleared by applying Article 54(3) of Regulation (EU) No 1306/2013 (100% EU budget).

Cases where recovery is subject to judicial procedures:

- EAGF/TRDI cases from FY2015 are cleared by applying Article 54(2) of Regulation (EU) No 1306/2013 (50% Member State budget);

⁽²⁾ As per Article 41(5) of Regulation (EU) No 907/2014 (this Article continues to apply pursuant to Article 40 of Regulation (EU) 2022/127), for the purpose of applying Article 54(1) and (2) of Regulation (EU) No 1306/2013, for the cases reported or to be reported to the Commission in respect of financial year 2014, as referred to in point (h) of Article 6 of Commission Regulation (EC) No 885/2006, the financial year of the primary finding of irregularity in the sense of Article 35 of Council Regulation (EC) No 1290/2005 shall continue to be taken into account. For the cases for which no primary administrative or judicial finding of irregularity was established before 16 October 2014, the provisions of Article 54(1) and (2) of Regulation (EU) No 1306/2013 shall apply.

- EAGF/TRDI irrecoverable cases from FYs 2015-2023 are cleared by applying Article 54(3) of Regulation (EU) No 1306/2013 (100% EU budget).
- EAFRD 2007-2013 programming period cases from FY2015 are cleared by applying Article 54(2) of Regulation (EU) No 1306/2013 (50% Member State budget);
- EAFRD 2007-2013 programming period irrecoverable cases from FYs 2007-2023 are cleared by applying Article 54(3) of Regulation (EU) No 1306/2013 (100% EU budget).
- EAFRD 2014-2020 programming period irrecoverable cases from FYs 2016-2023 are cleared by applying Article 54(3) of Regulation (EU) No 1306/2013 (100% EU budget).

Following the above, the amount to be charged is **EUR 20 283 923.36** in respect of the **EAGF**, **EUR 582 884.30** in respect of the **EAFRD 2007-2013**, **EUR 142 061.05** in respect of the **EAFRD 2014-2020**.

Please take note that the amounts reported above⁽³⁾ should be taken into account when reporting to the Commission future recoveries in ‘the detailed table on recoveries related to previous programming periods’ to avoid double compensation.

Appendix 4

Accreditation criteria no longer respected or seriously deficient

In the previous financial years, the Certification Body reported serious deficiencies in the Paying Agency’s compliance with the *Delegation* accreditation criterion, regarding *administrative* and *on-the-spot checks*, for Non-IACS expenditure of both Funds. DG AGRI confirmed the severity of these findings in the audit carried out in May 2021 (PAYR/2020/004/GR) and followed up in a monitoring audit in December 2023. The *Delegation* issues identified relate to the absence of consistent, sufficient documented agreements, to the lack of monitoring and supervision of the delegated tasks/delegated bodies and lack of segregation of duties. Findings were also identified for accreditation criterion *Control activities*, regarding the *authorisation of claims* for EAGF Non-IACS.

In last year’s Certification Body report for FY2022, deficiencies were reported as regards the Paying Agency’s compliance with the accreditation criteria and its internal control system. A score of 2 (works partially) out of 4 was given by the Certification Body for accreditation criteria *Organisational Structure*, *Human-resource Standard*, *Delegation*, *Information System Security* and *Monitoring*, regarding specific procedures and populations. Moreover, the Certification Body stated that the corrective actions determined following enquiry PAYR/2020/004/GR were not completed. It was also underlined that the institutional framework for promotion measures, laid down in the various Ministerial Decisions under EAGF Non-IACS, does not ensure a clear separation of functions between the Ministry of Rural Development and Food and the Paying Agency. In particular, the Certification Body concluded that it is not clear which functions and responsibilities fall under the Ministry in its capacity as Competent Authority, as defined by the national legislation, and what are the delegated tasks (part of the Paying Agency’s responsibilities), as the two currently overlap.

⁽³⁾ Related to EAFRD 2007-2013 and TRDI, where applicable.

Based on these elements, by letter ARES(2023)3978286 dated 8.6.2023, DG AGRI requested the Competent Authority to evaluate the need of putting the Paying Agency's accreditation under probation, in accordance with Article 2(3) of Regulation (EU) 2022/128. By letter dated 15.9.2023, the Competent Authority informed DG AGRI that it had decided not to put the Paying Agency's accreditation under probation. According to its assessment, most of the deficiencies identified by DG AGRI and by the Certification Body were already addressed under the improvement plan previously implemented or were addressed through an update of this plan.

In this year's report for FY 2023, the Certification Body reports again several serious deficiencies in the Paying Agency's internal control system and its compliance with the accreditation criteria. Grade 2 (works partially), out of 4, was given for accreditation criteria *Human Resource-Standard, Risk Assessment, Delegation, Control Activities, Communication* and *Monitoring via internal control activities and internal audit service*, in relation to several procedures/systems for both EAGF and EAFRD.

In fact, several serious intermediate findings were identified by the Certification Body regarding the Paying Agency's compliance with the accreditation criteria as follows:

- The *Organisational Structure* of the Paying Agency which is described as very unstable at the level of the managerial and non-managerial staff and of the IT systems;
- *Human-Resource standard*, where the staff shortages and the lack of skilled staff are noted;
- *Risk Assessment*, where it is underlined that the Internal Audit Service identified very high and extreme risks;
- *Delegation*, for which it is mentioned that some agreements are not signed. Furthermore, as in FY 2022, it is underlined that the institutional framework for promotion measures, as laid down in the (joint) ministerial decisions for EAGF Non-IACS, does not ensure a clear separation of tasks between the Ministry of Rural Development and Food and the Paying Agency;
- *Communication*, where it is underlined that the Paying Agency did not provide the Certification Body with the necessary information in a reasonable period of time (delays of 16 months are noted);
- The lack of *Monitoring*, including monitoring of the delegated bodies.

In addition, for *Control Activities*, regarding *Procedures for authorising claims*, major and intermediate findings were identified by the Certification Body leading to qualified opinions for both Funds.

Furthermore, similarly to last year, the Certification Body states that further additional actions are needed to address all the deficiencies identified under enquiry PAYR/2020/004/GR. Based on the latest information provided in March 2024 under enquiry PAYR/2020/004/GR, it appears that although the Greek authorities are aware of a high risk of fraudulent schemes established under promotion measures and conflict of interest as regards EAFRD Non-IACS measures since 2021, they do not agree they need to take corrective actions and establish the financial risk. These deficiencies persist in financial year 2023.

Based on the information from the ongoing accreditation enquiry (PAYR/2020/004/GR) and the Certification Body's audit report, DG AGRI notes a clear deterioration of the Paying Agency's internal control system and its compliance with the accreditation criteria. In DG AGRI's view, the deficiencies identified in the previous financial years were not properly addressed in the sense that no structural and effective remedial actions were put in place to address their root causes.

For the reasons above, DG AGRI is of the opinion that the Competent Authority should urgently put the Paying Agency under probation and put in place an accreditation action plan to address all the deficiencies identified in the Paying Agency's compliance with the accreditation criteria. In view of the seriousness of the situation and considering that this request was rejected by the Greek authorities last year, DG AGRI invites the Competent Authority (and if considered necessary the Paying Agency and the Certification Body) to a technical meeting as set out in the cover letter in order to discuss the Competent Authority's assessment and planned remedial actions.

In DG AGRI's view, the lack of adequate, effective, and immediate corrective actions may result in the withdrawal of the accreditation of OPEKEPE, as per Article 2(6) of Regulation (EU) 2022/128.

The results of the Competent Authority's final assessment, the corrective actions put in place or planned to be put in place to address the deficiencies in the Paying Agency's control system and its compliance with the accreditation criteria, as per Annex I to Regulation (EU) 2022/127, and the progress made, should be communicated in the reply to this letter.

Appendix 5

Corrective measures and potential financial impact

Issues related to financial clearance - Audit objective 1

Key Control 1 (KC1) ⁽⁴⁾: Appropriate procedures and checks to ensure that undue amounts paid are timely identified, recovered and reimbursed to the Funds

Key Control 2 (KC2): Appropriate procedures and checks to ensure that the accounting entries and the data related to the management of the debts are accurate

1. Initiation of the recovery proceedings

Debt 644397

On 3.1.2020, the Ministry of Rural Development and Food reported the irregularities to OPEKEPE in a control report. According to the letter 800112 (34797) of 18.12.2019 and the decision of 7.11.2021, the ministry of Agriculture was informed of the facts substantiating the irregularity ⁽⁵⁾ on 5.12.2016. As explained in Guideline 5 on debt management and reporting ⁽⁶⁾, in column W, the date to be considered is the one of the first document, in the chronology of the case, stating that an irregularity has taken place. However, in the Annex II table, the Paying Agency reported 17.10.2021 in column "W". DG AGRI could not identify the reason for this specific reporting.

DG AGRI recalls that according to Key Control 2 point a), the Member States should have implemented appropriate procedures to ensure that the recording of data related to the registration and the recovery of debts in debtors' ledger and in the Annexes II and III

⁽⁴⁾ Key and ancillary controls concerning irregularities and debt management and control system, in relation to conformity clearance procedures launched as from 1.1.2015.
(https://circabc.europa.eu/ui/group/d9d57ada-2d34-4c85-9e3c-7ce690099d5d/library/1a04cfdd-a296-441d-8588-96008302a5e4?p=3&n=10&sort=modified_DESC)

⁽⁵⁾ Investments for which EAFRD funds were received that are no longer the property of the beneficiary, which is a non-compliance with the durability requirement

⁽⁶⁾ Reference Ares(2023)1637881 dated 7.3.2023

tables as per Regulation (EU) No 908/2014 is accurate. The Greek authorities managed the control report for this debt with excessive delays. Those delays breached the deadlines set out in Article 54(1) of Regulation (EU) No 1306/2013 and represent also a negligence in the management of those debts. According to Key Control 1, point b) Member States should have in place appropriate procedures to launch the recovery in a timely manner and no later than the time limit referred in Article 54 (1) of Regulation (EU) No 1306/2013 for the new cases and the one referred in Articles 32 (4) (a) and 33 (5) (a) of Regulation (EC) No 1290/2005 for the old cases.

The Greek authorities did not put in place sufficient mechanisms to ensure that the irregularity recording is correct, complete and consistently uploaded in all lists and registers.

Delays in the recovery procedure jeopardize the recovery, which presents a risk to the Fund. DG AGRI considers that the financial risk for this debt case is equivalent to the outstanding amount, i.e. **EUR 93 176.86**.

Debt 643918

For this debt case, on 30.9.2021, the Paying Agency received the information regarding the irregularity. The information in column W (6.12.2021) corresponds to another decision confirming the irregularity and the amount to recover. Although the Certification Body did not identify this discrepancy, the case is affected by the same deficiency regarding Key Control 2 point a) described above.

Furthermore, based on the information provided, the Greek authorities did not address the main issue leading to the irregularity, i.e. that the beneficiary did not submit the requested information. The local administration could not reach the debtor during the control and could not confirm that he received the recovery order (the acknowledgement of receipt only indicates that the letter was delivered at the address indicated, but that no one was there). There is a risk that the debtor left his address, a situation which is not addressed by the procedures in place. The Greek authorities did not provide any information on the ongoing enforcement proceedings since 21.3.2022.

DG AGRI recalls that according to Key Control 1 points b) and c), the Member States should implement appropriate procedures to launch the recovery of unduly paid amounts and ensure the follow-up of a debt within 1 year after the last event or action which is relevant according to the applicable national recovery procedure.

DG AGRI considers that the financial risk for this debt case is equivalent to the outstanding amount, i.e. **EUR 13 195.24**.

DG AGRI requests the Greek authorities to provide the state of play of the proceedings by the tax office as regards this debt since 21.3.2022.

2. Absence of sufficient testing by the Certification Body on Annex III

As described in Appendix 1, the Certification Body did not perform sufficient testing of the Annex III. In the absence of sufficient testing, despite the extension of the deadline to 1.3.2024 for the submission of the certification report, DG AGRI considers that assurance cannot be obtained on the information provided in the report concerning this Annex. DG AGRI therefore considers that the outstanding amount reported in the Annex III, i.e. **EUR 8 143 957.21** is at risk.

DG AGRI requests the Greek authorities to provide the results of additional tests performed by the Certification Body on Annex III in the reply to this letter.

3. Flat rate correction for debt management

Furthermore, DG AGRI takes the view that based on the abovementioned findings the debt management system of GR01 – OPEKEPE was not in conformity with EU rules, and that the corrective measures as set out in Appendices 2 and 5 are necessary to ensure future compliance with those requirements.

In these circumstances, DG AGRI considers proposing the exclusion from EU funding of part of the expenditure financed by the EAGF and the EAFRD in accordance with Article 52 of Regulation (EU) No 1306/2013.

On the basis of DG AGRI findings, deficiencies in two key controls were identified as mentioned above affecting debt management in general. The abovementioned calculated correction (point 1) will have to be taken into account at the calculation of the financial risk established for the overall population once further information from the Greek authorities is received. Following the receipt of the information requested, the risk to the Funds resulting from the deficiencies or the non-application of corrective measures will be re-determined in accordance with Article 54(5) of Regulation (EU) No 1306/2013 and the Guidelines on the calculation of financial corrections in the framework of the conformity and financial clearance of accounts procedures - C(2015) 3675 of 8.6.2015.

DG AGRI considers that the findings relate to two key controls implemented so poorly that they are ineffective to protect the financial interests of the EU in the debt management system of GR01- OPEKEPE. If a more precise calculation of the financial risk is not supplied, Article 12(6) and (7) of Regulation (EU) No 907/2014 and the Guidelines on the calculation of financial corrections in the framework of the conformity and financial clearance of accounts procedures - C(2015) 3675 of 8.6.2015, **would indicate a flat-rate correction of at least 10 %.**

The scope of the correction shall be the **outstanding debts as reported in Annex II of the annual accounts.**

Accordingly, and taking into account the Guidelines on the calculation of the financial corrections in the framework of the conformity and financial clearance of accounts procedures – C(2015) 3675 of 8.6.2015, DG AGRI considers it necessary to open the procedure as provided for in Article 34 of Regulation (EU) No 908/2014 and Article 52 of Regulation (EU) No 1306/2013 and considers proposing the exclusion from EU funding of an amount of **EUR 6 059 364.12** financed by the **EAGF** and **EUR 2 190 965.19** financed by the **EAFRD**.

Furthermore, for the risk mentioned in point 3 above Article 12(6) and (7) of Regulation (EU) No 907/2014 and the Guidelines on the calculation of financial corrections in the framework of the conformity and financial clearance of accounts procedures - C(2015) 3675 of 8.6.2015, would indicate a flat rate correction **of at least 10% on the outstanding debts as reported in Annex II of the annual accounts.**

DG AGRI considers that corrective measures (recovery of amounts related to the errors, review of applicable procedures etc.) are necessary to ensure that similar errors will not reoccur in the future.

Appendix 6

Information note on Protection of Personal Data collected by Directorate-General for Agriculture and Rural Development's audit units of the European Commission

1. Introduction

This privacy statement explains the reason for the processing, the way the Directorate-General for Agriculture and Rural Development (DG AGRI) collects, handles and ensures protection of all personal data provided, how that information is used and what rights you and other data subjects concerned by the audit may exercise in relation to your data (the right to access, rectify, block etc.).

The European institutions are committed to protecting and respecting the privacy of data subjects. As this service/application collects and further processes personal data, Regulation (EU) 2018/1725, of the European Parliament and of the Council of 23 October 2018 on the protection of individuals with regard to the processing of personal data by the Union institutions and bodies and on the free movement of such data ⁽⁷⁾, is applicable.

This privacy statement concerns external audits and controls undertaken by Directorate-General for Agriculture and Rural Development, hereinafter referred as DG AGRI's Directorate H – Assurance and audit (acting as Data Controller).

2. Why do we process personal data?

Purpose of the processing operation: DG AGRI's Directorate H (Assurance and audit) collects and uses personal data to verify compliance with all contractual provisions (including financial provisions), in view of checking that the action and the provisions of contracts are being properly implemented and in view of assessing the legality and regularity of the transaction underlying the implementation of the Union budget.

Lawfulness of the processing operation:

The processing operations on personal data carried out in the context of ex-post controls are necessary and lawful under the following Articles of Regulation (EU) 2018/1725:

- Article 5.1 (a): processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Union institution or body;
- Article 5.1 (b): processing is necessary for compliance with a legal obligation to which the controller is subject.

Exemptions and restrictions under Article 25 (1) (c) and (g) may apply. As in the context of former audits and ex-post controls the EDPS has already concluded (EDPS prior-check, case number 2009-0565) that Article 27 is not applicable.

⁽⁷⁾ Regulation (EU) 2018/1725(OJ L 295 of 21/11/2018, p.39).

3. Which data does DG AGRI collect and process?

The personal data collected and further processed are: all data necessary to efficiently conduct a control such as:

- name
- function
- grade
- activities and expertise
- professional address
- timesheets
- salary
- accounts
- cost accounting
- missions
- information coming from local IT system used to declare costs as eligible
- supporting documents linked to travel costs
- minutes from mission and other similar data depending of the nature of the action.

4. How long does DG AGRI keep personal data?

DG AGRI only keeps the personal data for the time necessary to fulfil the purpose of collection or further processing. Personal data are stored until 10 years after the final payment on condition that no contentious issues have occurred, in which case personal data will be kept until the end of the last possible legal procedure.

5. How does DG AGRI protect personal data?

All data in electronic format (e-mails, documents, uploaded batches of data etc.) are stored on the servers of the European Commission, the operations of which abide by the European Commission's security decision of 16 August 2006 [C(2006) 3602] concerning the security of information systems used by the European Commission.

6. Who has access to personal data and to whom is it disclosed?

Access to your personal data is provided to Commission services in charge of ex-post controls, and could include a possible transmission to the bodies in charge of monitoring or inspection tasks in accordance with Community law (OLAF, Court of Auditors, Ombudsman, EDPS, IDOC, Internal Audit Service of the Commission as well as external contractors). Such staff abide by statutory, and when required, additional confidentiality agreements.

The controller may also have to transfer the personal data of other data subjects concerned to the authorities responsible for the management and control of the audited schemes and programmes in your country in accordance with Regulation (EU) 2018/1725, including the derogations under Article 50(1)(d) where necessary and applicable.

7. What are your rights and how can you exercise them?

According to Regulation (EU) 2018/1725, data subjects are entitled to access their personal data and rectify it in case it is inaccurate or incomplete, or block or delete it in case the Data Controller has no legal basis for processing it. You can exercise your rights by contacting the Data Controller in DG AGRI, or in case of conflict the Data Protection Officer and if necessary the European Data Protection Supervisor using the contact information given under point 8 below.

8. Contact information

If you have comments or questions, any concerns or a complaint regarding the collection and use of your personal data, please feel free to contact the Data Controller in DG AGRI using the following contact information:

- Directorate H – Assurance and Audit
- AGRI-AUDIT-COCE@ec.europa.eu

Alternatively, you can contact the Data Protection Officer (DPO) of the Commission: DATA-PROTECTION-OFFICER@ec.europa.eu

or the European Data Protection Supervisor (EDPS): edps@edps.europa.eu.

9. Where to find more detailed information?

The Commission Data Protection Officer (DPO) publishes the register of all operations processing personal data. You can access the register on the following link: <http://ec.europa.eu/dpo-register>

This specific processing has been notified to the DPO with the following reference: DPR-EC-00811.