This document is referred to as "Q&A on monitoring for claim years 2018 and 2019"

The purpose of this document is to provide clarifications to Member States (MS) on the legal provisions related to Article 40a Checks by monitoring of Regulation (EU) No 809/2014 as amended by Commission Implementing Regulation (EU) 2018/746. It is applicable to claim years 2018 and 2019.

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**Checks by monitoring – general questions**

1. **Is it compulsory to apply monitoring?**
   
   No. Article 40a gives competent authorities the choice, not an obligation, to carry out checks by monitoring.

2. **Can the decision to do monitoring be taken only at MS level or can monitoring be applied in some regions within a MS whereas regions stay with the “classical” on-the-spot checks (OTSC)?**
   
   According to Article 40a, the decision to carry out checks by monitoring lies with the “competent authorities”. This indicates that the decision may be taken at sub-national level. Taking into account the pre-conditions that have to be fulfilled to substitute “classical OTSC”\(^1\), the decision may be taken at the level of the individual LPIS system, e.g. by BE-Flanders and BE-Wallonia. Furthermore, where different paying agencies within a MS rely on the same LPIS, the decision may also be taken at the paying agency level.

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\(^1\) In this document, the term **classical OTSC** is used to refer to both in-situ visits and controls with remote sensing used to check eligibility requirements in the so-called “5% sample” (or increased/ decreased control sample).
3. Can a MS revert to the classical OTSC after applying the monitoring approach for a year or two?

Yes. Applying checks by monitoring is optional hence, if competent authorities decide to discontinue the approach, they can revert to the classical OTSC.

**Setting up of a monitoring procedure (cf. Article 40a(1)(a))**

4. Is using Copernicus Sentinels satellite data compulsory when checks by monitoring are carried out? Could Member States instead accept information sent by farmers, e.g. geo-tagged photos, and substitute the standard 5% OTSC rate without any initial satellite monitoring?

As set out in Article 40a(1), where MS elect (choose) to carry out checks by monitoring, they shall set up a procedure of regular and systematic observation, tracking and assessment of all eligibility criteria, commitments and other obligations which can be monitored by Copernicus Sentinels satellite data or other data with at least equivalent value. It follows that using either Copernicus Sentinels satellite data or other data with at least equivalent value, or the two combined, is a compulsory element of monitoring. Information sent by farmers cannot be considered as “data of equivalent value” to Copernicus Sentinels satellite data (see also point 5) and substitution of the control rates set out in Articles 30-32 is not possible. Such information is however relevant in the context of follow-up activities and checks of 5% of beneficiaries concerned by eligibility criteria, commitments and other obligations which cannot be monitored (see points 9 and 19).

5. **What is meant by “other data with at least equivalent value” (Article 40a(1)(a))?**

Any alternative to Sentinel data must have similar essential characteristics as follows:

- (i) provide information that are relevant to conclude on the eligibility of the aid or support requested, i.e. data on eligibility criteria, commitments and other obligations;
- (ii) be available/supplied in a systematic and cyclical manner throughout the year or at least in the period which is relevant to conclude on the eligibility of the aid or support requested;
- (iii) be suitable for automatic algorithm processing/assessment;
- (iv) if Sentinels data are not used at all, cover the whole area which is subject to checks by monitoring.

An example of data of equivalent value to Sentinel satellite data are Landsat data.

N.B. “Data with at least equivalent value” to Sentinel satellite data should not be confused with additional relevant evidence such as geo-tagged photos or documentary evidence accepted in the context of Article 40a(1)(b) and (c), i.e. follow-up activities for inconclusive cases and checks of non-monitorable requirements.
6. Which eligibility criteria, commitments and other obligations can be monitored?

All eligibility criteria, commitments and other obligations for which Sentinels satellite data and/or other data with at least equivalent value provide information that is relevant to conclude on the eligibility of the aid or support requested, regardless of specific cases where the information does not provide conclusive results because of e.g. the size/shape of parcels or absence of technical solutions developed to process/assess data, are considered as monitorable. The term "monitorable" (that can be monitored) needs to be understood as monitorable by the use of the Sentinels satellite data, other data with at least equivalent value, and the follow-up action for the cases defined in point 9.

7. Is it necessary to check all eligibility criteria, commitments and other obligations that can be monitored in a scheme/measure that is checked by monitoring?

Yes. In order for a scheme/measure/type of operation to be considered as checked by monitoring, all eligibility criteria, commitments and other obligations that can be monitored have to be included in the procedure set up in accordance with Article 40a(1)(a).

A situation where only some of the requirements of a scheme/measure/type of operation that can be monitored are checked by using Sentinels satellite data or other data with at least equivalent value, will not be considered as monitored in the meaning of Article 40a. Instead, this will be regarded as “other relevant evidence” used in the context of classical OTSC.

8. How should “conclude on eligibility of the aid or support” be interpreted? Is it necessary to verify all parcels declared by the beneficiary?

All parcels declared by the beneficiary for a given area-related aid scheme or support measure or type of operation that is checked by monitoring have to be covered by the monitoring procedure referred to in Article 40a(1)(a).

Depending on the scheme/measure/type of operation, however, this may imply that not all parcels have to be verified conclusively, i.e. classified as “red” or “green” as referred to in technical documents of the JRC. An example of the latter is the crop diversification requirement where it may not be necessary to check every single parcel declared.

Finally, as stated in point 9, follow-up of inconclusive cases is not always necessary which reduces the number of parcels which have to be verified to conclude on eligibility for payment.

Follow-up of inconclusive cases (cf. Article 40a(1)(b))

9. When is it necessary to carry out follow-up activities to conclude on the eligibility of aid or support requested?

Where a competent authority decides to apply the checks by monitoring in claim year 2018 and 2019, the following applies with regards to follow-up of inconclusive cases:

(i) If the impact on payment is \( \leq 50 \, \text{€} \), no follow-up activities are necessary;
(ii) If the impact on payment is > **50 € and ≤250 €**, at least 5% of inconclusive parcels have to be followed up to reach a conclusion on eligibility of aid or support requested;

(iii) If the impact on payment is > **250 €**, the application(s)/claim(s) has/ have to be followed-up.

The thresholds apply at beneficiary level for all schemes/ measures that are checked by monitoring.

For the purpose of calculating the impact on payment for an individual aid scheme or support measure in a certain year, the following formula could be used to calculate the impact on payment (example based on BPS/SAPS payment):

\[
\text{Unresolved area in ha} \times \frac{\text{average value of declared payment entitlements by the beneficiary (BPS countries)}}{\text{Unresolved area in ha} \times \text{rate of SAPS per ha in the previous claim year (SAPS countries)}}
\]

The same principle should be applied when multiple schemes/ measures/ types of operations are monitored. The formula has to be adapted accordingly. For example, the impact on payment when BPS/SAPS, greening and a VCS measure are monitored may be calculated as follows:

\[
\text{Unresolved area in ha} \times \frac{\text{average value of declared payment entitlements by the beneficiary + corresponding greening payment per ha + rate of VCS payment per ha (BPS countries)}}{\text{Unresolved area in ha} \times \text{rate of SAPS per ha in the previous claim year + corresponding greening payment per ha + rate of VCS payment per ha (SAPS countries)}}
\]

10. What is considered an “appropriate follow-up activity”?

Appropriate follow-up activities include:

(i) **Communication with beneficiaries.** This may include requesting evidence such as geo-tagged photos or recommending to check the aid application/ payment claim in cases where the results of monitoring do not correspond to the declaration.

(ii) **Administrative actions of the competent authority.** This may include e.g. requesting HHR data from the JRC, using drones, acquiring third party data etc.

(iii) **Physical inspections in the field.** If none of the above allows the administration to conclude on payment, physical inspections in the field have to be carried out. See also point 11 (on difference physical inspections in the field/ classical OTSC).

(iv) **Other activities considered as “appropriate” by the competent authority**
Physical inspections in the field (cf. 2nd para of Article 40a(1))

11. Are physical inspections in the field carried out under monitoring different from classical OTSC?

Yes, these are distinctly different visits. Physical inspections may be required in two different scenarios and in both cases the approach is different to the classical OTSC.

(i) Follow-up activities required by Article 40a(1)(b). In this case the physical visits have to focus on concluding on eligibility of payment, i.e. requirements where monitoring did not give a “green” or “red” light; area measurement and checking of all other eligibility criteria is not required as in a classical OTSC.

(ii) Checks on 5% of beneficiaries concerning eligibility criteria, commitments and other obligations which by nature cannot be monitored (cf. Article 40a(1)(c)). In these cases as well, the physical inspection should be limited to checking the eligibility criteria, commitments and other obligations that could not be monitored and/or for which relevant evidence was not sufficient to conclude on the eligibility of aid or support requested. Area measurement and checking of other eligibility criteria is not required as in a classical OTSC.

12. Can MS decide to do physical inspections by default and not ask the beneficiary to provide e.g. geo-tagged photos?

The competent authority is not obliged to use relevant evidence such as documentary evidence or geo-tagged photos in the context of follow-up of inconclusive cases or checks of 5% of beneficiaries concerned by non-monitorable requirements (non-monitorable by nature). Hence, physical inspections may be the default method used.

Relevant evidence (cf. 2nd para of Article 40a(1))

13. What is meant by "relevant evidence"?

Competent authorities are free to define what in their specific context can be considered “relevant evidence”. Relevant evidence may e.g. include evidence provided by the farmer at the request of the competent authority.

Whether a certain type of evidence is relevant should be assessed in light of the type of eligibility criteria, commitment or other obligation it is supposed to check. It should also be assessed whether a certain type of evidence alone is sufficient to allow the competent authority to conclude whether a certain eligibility criteria, commitment or other obligation has been respected, or if it has to be combined with other types of evidence to lead to a conclusion.

14. Can a beneficiary submit evidence on a non-compliant parcel (red parcel)?

The legal framework does not prevent competent authorities from designing the monitoring tool in a way that will inform the beneficiary about a “red parcel” before a final report and a decision on payment are communicated to the beneficiary. Member States may allow or ask beneficiaries to submit evidence if parcels were considered non-compliant, but nevertheless
the beneficiary believes to be complying with the requirements. Applications may be modified accordingly (see point 34).

**Area determination/ measurement**

15. Can tolerances be introduced to establish areas under monitoring?
Checks by monitoring do not require area measurement. As provided for in Article 40a(2)(a), where checks by monitoring are carried out and where, *inter alia*, the competent authority has proven the quality of the identification system for agricultural parcels, Article 38 “Area measurement” does not apply. Hence, no tolerances for determination of areas are necessary.

16. What rules shall apply for the area determination taking into consideration that Article 38 does not apply to checks by monitoring?
Areas to be paid will be determined on the basis of area recorded in the LPIS and cross-checked with data declared in the GSAA. Given that information on areas that can be paid for is based on the LPIS, it is essential to have a proven quality of the LPIS as assessed in accordance with Article 6 of Regulation (EU) No 640/2014.

17. For applicants whose eligibility results were correct based on Sentinels, can the area be controlled entirely in LPIS or are other usual methods required (remote sensing, GPS measuring on-the-spot)?
See previous reply.

**Checks of requirements that cannot be monitored (cf. Article 40a(1)(c))**

18. Is defining control zones allowed for these checks? Working with control zones in which the MS controls the non-monitorable requirements is comparable with the remote sensing zone.
The legal framework does not prevent competent authorities to use control zones provided that the random-based minimum sample of 1-1.25 % of the beneficiaries is respected and the rest of the sample is selected on the basis of risk.

19. Can you clarify the difference between points (b) and (c) of Article 40a? Is point (b) only applicable to eligibility criteria, commitments and other obligations which can be monitored by their nature but because of the size of parcel or configuration leads to inconclusive cases and therefore requires follow-up activities?
Indeed, Article 40a(1)(b) covers requirements that by their nature can be monitored but because of e.g. the size or shape of individual parcels, a follow-up is required. Article 40a(c) covers those requirements that by their nature cannot be monitored, regardless of e.g. the size or shape of parcels.
**Communication with beneficiaries (cf. Article 40a(1)(d))**

20. In what way should beneficiaries be informed about the decision to carry out checks by monitoring? Would it be enough to publish an article on the website of the competent authority?

In line with the principle of shared management, it is up to the competent authorities to decide on the best tool(s) to be used to fulfil this requirement.

21. Shall a notification to beneficiaries about the monitoring process constitute a notification of an OTSC?

The amendment to Article 15(3) clarifies that the obligation to inform beneficiaries about the decision to carry out checks by monitoring (cf. Article 40a(1)(d)) shall not be considered as a notice to the beneficiary of a competent authority’s intention to carry out an on-the-spot check.

22. Where the competent authority requests additional Supplementary information arising from the monitoring approach, would such information be considered to be related to Article 15(1) of the Commission Delegated Regulation (EU) No 640/2014 and Article 15(3) of the Commission Implementing Regulation (EU) No 809/2014, meaning that the authority has thereby already informed the beneficiary of a non-compliance in the aid application or payment claim?

For the purpose of Article 15(1) of Regulation (EU) No 640/2014 (exceptions from the application of administrative penalties), communication with beneficiaries which is done in the context of Article 40a(1)(b) and (d) shall not be considered as information to the beneficiary on a non-compliance. Namely, the purpose of Article 15(1) of Regulation (EU) No 640/2014 is to ensure equal treatment of farmers regarding the application of penalties when only part of the control population is checked on the spot (the 5% sample). Checks by monitoring being applied to the whole control population, do not require the application of this provision.

23. How to handle information exchanges with beneficiaries in respect of inconclusive cases? Are these considered as a notification of an OTSC? Is withdrawal of an application permitted?

For the purposes of Article 3 “Withdrawal of aid applications, applications for support, payment claims and other declarations”, communication with beneficiaries which is done in the context of Article 40a(1)(b) and (d) shall not be considered as notice to the beneficiary of an on-the-spot check nor as a non-compliance revealed by an on-the-spot check.

**Preconditions (cf. Article 40a(2))**

24. What is meant by retroactive recovery? Will this be based on the LPIS update and go back four years, or cover all years since the previous update?

Recovery of undue payments is provided for in Article 63 of Regulation (EU) No 1306/2013, and detailed rules including exemptions are set out in Article 5, 6, 7 of Regulation (EU) No
809/2014. Competent authorities have to have in place a procedure that details how these are effected and be able to show that the procedure is implemented.

Where checks by monitoring are applied, recoveries of undue payments will be linked to LPIS updates. The period for implementing any retroactive recoveries is 3 years as per Article 3 paragraph 2 of Council Regulation No. 2988/95.

25. Monitoring requires a good and reliable LPIS. With regards to the LPIS QA, it would appear reasonable to limit the number of quality elements that are taken into account to judge if a MS can apply monitoring to the primary elements. Is this possible?

For the purpose of proving the quality of the identification system for agricultural parcels, at least the elements in the first conformance class have to be conforming (cf. Article 6(1) of Regulation (EU) No 640/2014). Conformance on all quality elements is however recommended as, in principle, where elements of the first conformance class are found conforming, it is expected that the elements of the second conformance class will be conforming as well.

26. For which year the LPIS QA should be conforming? Since the results of the LPIS QA for e.g. 2018 will only be known in January 2019 and the deadline for notification of the decision to implement monitoring is required by 1 December of 2018, will the Commission be looking at the 2017 QA results or the 2018 QA?

The Commission will take into account the latest available results of the LPIS QA, i.e. for 2018 the results of the LPIS QA 2017. However, for the purpose of assessing the fulfilment of conditions set out in Article 40a(2) the Commission will base itself on the results available at the time of the decisions of the MS to apply monitoring.

27. Will the LPIS have to be in conformity before monitoring is applied or also during the years when monitoring is used?

The application of checks by monitoring relies on a good quality LPIS. Hence, the LPIS has to be of a proven quality both when the decision to carry out checks by monitoring is taken and in subsequent years. Where the LPIS QA reveals deficiencies in the system, competent authorities are expected to remedy the situation.

Phasing-in and flexibilities in applying monitoring (cf. Article 40a(3))

28. Can monitoring be applied at scheme level or regional level, or by the characteristics of a holding/ an area?

Checks by monitoring can be applied to an individual area-based scheme or support measure or type of operation (cf. Article 40a(3) first subparagraph). This flexibility is permanently available to competent authorities.

During the phasing-in period, further flexibilities are possible as long as the areas subject to checks by monitoring are chosen on the basis of objective and non-discriminatory criteria.
29. Is phasing-in of checks by monitoring for a certain aid scheme, support measure or type of operation possible?

Yes. As provided in Article 40a(3) second subparagraph, phasing in over 3 years is possible. In year 3, all beneficiaries of the aid scheme, support measure or type of operation that is being checked by monitoring have to be covered by the monitoring procedure. In year 1 and 2, competent authorities may choose to limit the application of checks by monitoring to beneficiaries in areas chosen on the basis of objective and non-discriminatory criteria. All beneficiaries in the chosen area have to be checked by monitoring. This has to include areas (parcels) that may be outside the area chosen in year 1 and 2 by the competent authority. This does not have to, however, extend beyond the areas for which a competent authority is responsible. To illustrate this latter, if within a Member State, one paying agency 1 (=competent authority 1) decides to apply checks by monitoring but another paying agency 2 (=competent authority 2) keeps the “5% model”, areas farmed by a beneficiary in areas of paying agency 2 do not have to be monitored by paying agency 1.

Furthermore, in such cases the competent authority shall gradually extend the use of checks by monitoring; hence, in year 2, the areas covered by checks by monitoring have to be materially greater than in year 1. This will allow preparation for a full implementation of monitoring and fine-tune the follow-up procedures and IT tools used to analyse data.

30. Is phasing-in also available to MS that have one LPIS system or only to MS that have different LPIS systems?

Phasing-in is available to all competent authorities that can take the decision to introduce the checks by monitoring. See also point 2 on the term “competent authorities” which can take the decision to apply monitoring.

31. What happens with a holding which has a combination of monitorable and non-monitorable elements, for control sample selection?

Eligibility criteria, commitments and other obligations that can be monitored and those that cannot be monitored must be treated separately in the context of the checks by monitoring. This enables combining the results of checks even when the same holding has to comply with requirements that can be monitored and those that cannot be monitored.

Requirements that can be monitored for a certain scheme/measure/type of operation must be checked via the procedure set up in accordance with Article 40a(1)(a) and followed-up, where necessary, by appropriate activities (cf. Article 40a(1)(b)). The competent authority must also carry out checks on 5% of beneficiaries concerned by eligibility criteria, commitments and other obligations for the same scheme/measure/type of operation which cannot be monitored. This 5% sample should be drawn from the population of beneficiaries who have to comply with obligations that cannot be monitored for the scheme/measure/type of operation that is being checked by monitoring.
32. Can monitoring be applied only to certain eligibility criteria while control rates would continue to apply to remaining criteria, e.g. crops checked 100% by Sentinels, grassland systems checked by standard 5% OTSC?

Competent authorities can decide to use monitoring techniques, i.e. automated analysis of a time-series of Sentinels satellite data or data of at least equivalent value, to check any eligibility criteria, commitment or other obligation. Where these are used to check only some of the overall number of requirements of a certain scheme/ measure/ type of operation that can be monitored, substituting fully the control rates defined in Articles 30-32 is not possible. In other words, results stemming from monitoring techniques would be considered as “other relevant evidence” in the context of classical OTSC. Conversely, where all requirements of a certain scheme/ measure/ type of operation that can be monitored are checked by monitoring techniques, classical OTSC are not necessary and the scheme/ measure/ type of operation is considered checked by monitoring (see also point 7). As far as greening is concerned, working with separate sub-populations defined in Article 31 is possible.

In your example, assuming that both requirements have to be checked for BPS/SAPS, and that the grassland requirement that has to be checked is mowing, which is monitorable, the competent authority may choose to use monitoring techniques to verify the presence of crops only. In such a case, however, it is still necessary to carry out the classical OTSC (CwRS or field visits), including area verification (cf. Article 38) for the whole 5% control population. Substitution of the standard control rate is possible only if all requirements that can be monitored are covered by the monitoring procedure (cf. Article 40a(1)(a)).

33. Is phasing-in by individual criteria, commitments and other obligations possible?
   Can MS phase in monitoring by gradually adding requirements?

See previous point.

**Modification of aid applications and payment claims**

34. Can beneficiaries modify the declaration of areas, e.g. after a LPIS update, after the deadline for submission of amendments when checks by monitoring are applied?

As stipulated in Article 15(1b) and (2b), where checks by monitoring are carried out in accordance with Article 40a, beneficiaries may modify the single application or payment claim regarding the use of individual agricultural parcels up to a date fixed by the competent authority of a Member State which must be at least 15 days before any first payment of advances or instalments are made.

Please note that modifications regarding the use of individual agricultural parcels are permitted only where the requirements under the direct payments schemes or rural development measures concerned are respected.

Sentinels data do not give information that is accurate enough for the purpose of area measurement. Hence, this provision does not extend to the adjustment of areas of individual agricultural parcels declared in the single application or payment claim.
35. Can the competent authority fix the date for submission of modifications to e.g. 1 August so as to not delay the payment of advances?

The legal framework does not prevent the competent authority from fixing the date for submission of modifications to 1 August.

**Cross-compliance**

36. Does monitoring cover cross-compliance, and how will it affect cross-compliance control rates?

Checks by monitoring cannot be used to fully substitute the controls for cross-compliance. However, data collected by monitoring techniques, i.e. automated analysis of a time-series of Sentinels satellite data or data of at least equivalent value, can be used to check compliance with some requirements and standards relevant for cross-compliance (cf. Article 70(3)). The minimum control rate for cross-compliance remains the same.

**Rural development issues**

37. If the monitoring approach is implemented only in the 1st Pillar, how will the control sample for the 2nd Pillar operate in the absence of the cascade OTSC sample system?

The “cascade” is not compulsory. Amendments to Article 34 now allow MS to optimise their sample selection without following the “cascade”. This allows creating the control sample for the 2nd pillar independently.

38. The competent authority may decide to apply checks by monitoring at the level of the individual area-related aid scheme or support measure or type of operation or to defined groups of beneficiaries subject to on-the-spot checks for the greening payment, as referred to in points (a) to (h) of Article 31(1). Could you please confirm that we correctly understand that “type of operation” means the level of commitment/requirement? (mowing, tillage of black fallow etc.)

The Commission cannot confirm this understanding. A type of operation in the context of agri-environment-climate measure should be understood as a set of commitments/requirements and other obligations which the beneficiary must comply with. Hence, when checks by monitoring are performed at the level of the ‘type of operation’ all eligibility criteria, commitments and other obligations of that type of operation are to be checked. In the case of the ‘collective’ approach, the management activities constitute the commitments linked to a specific management function within a certain habitat that the collective needs to carry out. When applying monitoring on collectives, all activities, eligibility conditions and other obligations need to be verified.
Monitoring and payments to beneficiaries

39. Is it possible to pay beneficiaries subject to checks by monitoring before all checks have been finalised (cf. Article 75(2) of Regulation (EU) No 1306/2013)? There is a risk of delaying payments to farmers if that is not the case.

Where checks by monitoring is applied, results of the checks by monitoring for one holding cannot have an impact on the results of checks for another holding. Hence, payments to a beneficiary for the scheme/ measure/ type of operation that is checked by monitoring can be done as soon as the checks for that individual beneficiary (decision on payment) is complete; it is not required to complete the checks of all beneficiaries of the scheme/ measure/ type of operation before proceeding with the payments.

40. Is it possible to pay beneficiaries subject to monitoring as soon as their dossier has been finalised, e.g. at the end of July?

It is possible to pay beneficiaries as soon as their individual checks (decisions on payment) are finalised (see previous point). It is not however possible to pay for claim year N in July of year N as this would not be in line with the payment deadlines set out in Article 75(1) of Regulation (EU) No 1306/2013 (except for RD advance payments).

Notifications

41. When the competent authority notifies the Commission in year N that it decided to carry out checks by monitoring for one or more schemes/ measures/ types of operations, is it necessary to resubmit the same notification in year N+1, N+2 etc.?

It is not necessary to resubmit the notification if there are no changes compared to the initial one.

Other questions

42. Can MS change e.g. the maintenance criteria to make them easier to control by monitoring?

Yes, although conformity with the legal provisions needs to be maintained. A notification about the change in ISAMM is necessary.

43. Not all the eligibility requirements of the Redistributive Payment (RDP) and the Payment for Young Farmers (YFS) can be monitored. Does this mean that control rates for these schemes will remain?

The monitoring approach does not require all eligibility requirements to be monitorable for the monitoring approach to be applied and classical OTSC to be substituted. Article 40a provides rules on how to treat, within a single system of checks by monitoring, requirements that can and those that cannot be monitored.

Furthermore, checking eligibility criteria for the RDP corresponds to checking eligibility of the hectares claimed for RDP and the area threshold. Since this corresponds to what has to be
checked for BPS/SAPS, the results of monitoring for BPS/SAPS will be valid for the RDP and the scheme will be considered as “checked by monitoring”. Consequently, the control rate set out in Article 30(b) will not be applicable.

44. Article 40 talks about Checks by Remote Sensing, whereas Article 40a talks about Checks by monitoring. However, monitoring is in the regulations defined as Copernicus satellite data or other data with at least equivalent value. This is also remote sensing. So the question is about how to distinguish between 1) remote sensing according to article 40, which can be used to check the 5% control population, and 2) remote sensing which is used to monitor.

Article 40a(2)(a) states that, where checks by monitoring are applied, Article 40 “Checks by remote sensing” does not apply. Article 40 is applied in the context of classical OTSC only (the so-called 5% sample).