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*****I**

REPORT

on the proposal for a regulation of the European Parliament and of the Council
on the financing, management and monitoring of the common agricultural
policy
(COM(2011)0628 – C7-0341/2011 – COM(2012)0551 – C7-0312/2012 –
2011/0288(COD))

Committee on Agriculture and Rural Development

Rapporteur: Giovanni La Via

Symbols for procedures

*	Consultation procedure
***	Consent procedure
***I	Ordinary legislative procedure (first reading)
***II	Ordinary legislative procedure (second reading)
***III	Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy
(COM(2011)0628 – C7-0341/2011 – COM(2012)0551 – C7-0312/2012 – 2011/0288(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0628) and the amendments to the proposal (COM(2012)0551),
- having regard to Article 294(2) and Article 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0341/2011),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the opinions of the European Economic and Social Committee of 25 April 2012¹ and 14 November 2012²
- having regard to opinion 1/2012 of the Court of Auditors of 8 March 2012³,
- having regard to the opinion of the Committee of the Regions of 4 May 2012⁴,
- having regard to its decision of 13 March 2013 on the opening of, and on the mandate for, interinstitutional negotiations on the proposal⁵,
- having regard to the undertaking given by the Council representative by letter of 7 October 2013 to approve that position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
- having regard to Rule 55 of its Rules of Procedure,
- having regard to the report of the Committee on Agriculture and Rural Development and the opinions of the Committee on Development, the Committee on Budgets, the Committee on Budgetary Control and the Committee on Regional Development (A7-0363/2013),

1. Adopts its position at first reading hereinafter set out;

¹ OJ C 191, 29.6.2012, p. 116.

² OJ C 11, 15.1.2013, p. 88 .

³ Not yet published in the Official Journal.

⁴ OJ C 225, 27.7.2012, p. 174.

⁵ Texts adopted, P7_TA(2013)0087.

2. Approves the joint statement by Parliament and the Council annexed to this resolution;
3. Takes note of the Commission statements annexed to this resolution;
4. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

AMENDMENTS BY THE EUROPEAN PARLIAMENT*

to the Commission proposal

Regulation of the European Parliament and of the Council

of

on the financing, management and monitoring of the common agricultural policy
(the horizontal regulation)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission¹,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee²,

■

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on "The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future"³ set out potential challenges, objectives and orientations for the Common

* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol **■**.

¹ OJ C , , p. .

² OJ C , , p. .

³ COM(2010) 672 final, 18.11.2010.

Agricultural Policy (CAP) after 2013. In the light of the debate on that Communication, the CAP should be reformed with effect from 1 January 2014. That reform should cover all the main instruments of the CAP, including Council Regulation (EC) No 1290/2005¹. Experience drawn from the implementation of that Regulation shows that certain elements of the financing and monitoring mechanism need to be adjusted. In view of the scope of the reform, it is appropriate to repeal Regulation (EC) No 1290/2005 and to replace it with a new text. The reform should also, as far as possible, harmonise, streamline and simplify provisions.

- (3) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt delegated acts in accordance with Article 290 of the Treaty *on the Functioning of the European Union (TFEU)* should be delegated to the Commission in respect of the accreditation of the paying agencies and coordinating bodies, the *obligations of the paying agencies as regards public intervention, as well as the rules on the content of their management and control responsibilities*, the measures to be financed by *the Union's budget under public intervention and the valuation of the operations in connection with public intervention, derogations from the ineligibility of payments made by the paying agencies to the beneficiaries before the earliest or the latest possible date of payment*, the compensation between expenditure and revenues under the *European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD)*, *the methods applicable to the commitments and the payment of the amounts if the Union's budget has not been adopted by the beginning of the financial year or if the total amount of the commitments scheduled exceeds the threshold laid down in Article [150(3)] of Regulation (EU) No 966/2012 of the European Parliament and of the Council², the deferral of monthly payments by the Commission to Member States with regard to expenditure under the EAGF and the conditions governing the reduction or suspension by the Commission of interim payments to Member States under the EAFRD, the suspension of monthly payments or interim payments for which the relevant statistical information has not been sent in time, specific obligations to be complied with by Member States with regard to checks, the criteria and methodology for applying corrections in the context of the conformity clearance procedure, the recovery of debts, requirements with respect to customs procedures, the withdrawals of aid and penalties in case of non-compliance with the eligibility conditions, commitments or other obligations resulting from the application of sectoral agricultural legislation, in respect of market measures for which the Commission may suspend monthly payments*, in respect of rules on securities, on the functioning of the integrated administration and control system, of the measures excluded from the scrutiny of transactions, *modifying the sum of the receipts or payments below which the commercial document of undertakings should normally not be scrutinised under this Regulation*, the penalties applied under cross-compliance, *control requirements in the wine sector*, the rules on maintenance of permanent *pasture*,

¹ Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ L 209, 11.8.2005, p. 1).

² Regulation (EU) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the annual budget of the Union (OJ L 298, 26.10.2012, p. 1).

the rules on the operative event and the exchange rate to be used by the Member States not using the euro, ***measures to safeguard the application of Union legislation if exceptional monetary practices related to national currency are likely to jeopardise it***, in respect of the content of the common evaluation framework of the measures adopted under the CAP ***and in respect of transitional measures***. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

- (4) The CAP consists of a series of measures, some of which relate to rural development. It is important that financing be provided for those measures in order to contribute to the achievement of the objectives of the CAP. Since ***those*** measures have certain elements in common, but do also differ in a number of respects, their financing should be combined in the same set of provisions which allows for different treatment where necessary. Regulation (EC) No 1290/2005 created two European agricultural funds, namely the ***EAGF***, and the ***EAFRD***. Those two Funds should be maintained.
- (5) Regulation (EU) No ***966/2012*** and the provisions adopted pursuant to it should apply to the measures set out in this Regulation. In particular, ***this*** Regulation lays down provisions related to the shared management with Member States based on the principles of sound financial management, transparency and non-discrimination, as well as provisions on the function of accredited bodies, the budgetary principles, provisions which should be respected in the framework of this Regulation.
- (5a) ***In order to ensure consistency between the practices of Member States and harmonised application of the force majeure clause, this Regulation should provide, where appropriate, for exemptions in cases of force majeure and exceptional circumstances, as well as for a non-exhaustive list of possible cases of force majeure and exceptional circumstances to be recognised by the national competent authorities. The national authorities could use the list in order to identify cases of force majeure or exceptional circumstances. The decision, however, should be taken on a case by case basis, based on relevant evidence to the satisfaction of the competent authority and the concept of force majeure in the framework of agricultural law should be interpreted in the light of the case law of the Court of Justice.***¹
- (6) The Union budget should finance CAP expenditure, including that on rural development, through both Funds either directly or in the context of shared management with the Member States. The types of measures that can be financed using those Funds should be specified.
- (7) Provision should be made for the accreditation of paying agencies by Member States, for the establishment of procedures for obtaining the requisite management declarations of assurance, and the certification of management and monitoring systems, as well as the certification of annual accounts by independent bodies. Moreover, in order to ensure the transparency of national checks, in particular as regards authorisation, validation and payment procedures, to reduce the administrative and audit burden for the Commission services as well as for the Member States where accreditation of each individual paying agency is required, the number of authorities and bodies to which those responsibilities

¹ See e.g. Case C-210/00, paragraph 79 or Case T-220/04, paragraph 175.

are delegated should be restricted taking account of the constitutional arrangements of each Member State. ***However, in order to avoid unnecessary reorganisation costs, Member States should be allowed to maintain the number of paying agencies which have been accredited before the entry into force of this Regulation.***

- (8) Where a Member State accredits more than one paying agency, it is important that it designates a single ***public*** coordinating body to ensure consistency in the management of the funds, to provide liaison between the Commission and the various accredited paying agencies and to ensure that the information requested by the Commission concerning the operations of several paying agencies is made rapidly available. The ***public*** coordinating body should also ***take and coordinate actions with a view to resolving any deficiencies of a common nature and keep the Commission*** informed of the follow-up and it should ***promote and, where possible,*** ensure homogeneous application of common rules and standards.
- (9) Only paying agencies accredited by the Member States offer reasonable assurance that the necessary checks have been carried out before granting Union aid to beneficiaries. It should, therefore, be explicitly laid down that only expenditure effected by accredited paying agencies can be reimbursed from the Union budget.
- (10) In order to help beneficiaries to become more aware of the relationship between agricultural practices and management of farms on the one hand, and standards relating to the environment, climate change, good agricultural condition of land, food safety, public health, animal health, plant health and animal welfare on the other, it is necessary that Member States establish a comprehensive farm advisory system offering advice to beneficiaries. That farm advisory system should ***not***, in any way, affect the obligation and responsibility of beneficiaries to respect those standards. Also, a clear separation between advice and checks should be ensured by the Member States.
- (11) The farm advisory system should cover at least the ***obligations at farm level resulting from*** requirements and standards forming the scope of cross compliance. That system should also cover the requirements to be respected in relation to the agricultural practices beneficial for the climate and the environment for direct payments, ***the maintenance of the agricultural area under Regulation (EU) No DP/xxx of the European Parliament and of the Council of xxx establishing rules for direct payment to farmers under support schemes within the framework of the CAP¹ as well as measures at farm level provided for in rural development programmes aiming at farm modernisation, competitiveness building, sectoral integration, innovation, market orientation and promotion of entrepreneurship.***
- That system should finally cover ***the requirements at the level of beneficiaries as defined by Member States for implementing specific provisions of Directive 2000/60/EC of the European Parliament and the Council² and for implementing Article 55 of Regulation (EC) No 1107/2009 of the European Parliament and of the Council³, in***

¹ OJ L , , p. .

² ***Directive 2000/60/EC of the European Parliament and the Council establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).***

³ ***Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).***

particular the compliance with the general principles of integrated pest management as referred to in Article 14 of Directive 2009/128/EC¹.

- (12) Entry into the farm advisory system should be on a voluntary basis for beneficiaries. All beneficiaries, even if not receiving support under the CAP, should be allowed to participate in the system. However priority criteria may be set *out* by the Member States. Due to the nature of the system, it is appropriate for the information obtained in the course of the advisory activity to be treated as confidential, except in case of serious infringements of Union or national law. In order to ensure the efficiency of the system, advisors should be suitably qualified and regularly trained.
- (13) The financial resources required to cover the expenditure effected by the accredited paying agencies in respect of the EAGF, *should* be made available to the Member States by the Commission in the form of reimbursements against the booking of the expenditure effected by those agencies. Until such reimbursements, in the form of monthly payments, have been paid, financial resources are to be mobilised by the Member States in accordance with the needs of their accredited paying agencies. The personnel costs and the administrative costs of the Member States and the beneficiaries involved in the execution of the CAP should be borne by themselves.
- (14) The use of the agro-meteorological system and the acquisition and improvement of satellite images should provide the Commission, *in particular*, with the means to manage agricultural markets, to facilitate the monitoring of agricultural expenditure *and to monitor agricultural resources in the medium and long term. Also, in the light of the experience gained with the application of Council Regulation (EC) No 165/94², some of its provisions should be incorporated in this Regulation and Regulation (EC) No 165/94 should thus be repealed.*
- (15) In the context of respecting budget discipline, it is necessary to define the annual ceiling for the expenditure financed by the EAGF by taking into account the maximum amounts laid down for that Fund under the multiannual financial framework provided for in the Council Regulation (EU) No xxx/xxx³ [MFF].
- (16) Budget discipline also requires that the annual ceiling for expenditure financed by the EAGF to be respected under all circumstances and at all stages of the budget procedure and the execution of the budget. This requires that the national ceiling for the direct payments per Member State set out in Regulation (EU) No xxx/xxx[DP] be regarded as a financial ceiling for such direct payments for the Member State concerned and that the reimbursement of those payments remain within this financial ceiling. Furthermore, budget discipline requires that all acts proposed by the Commission or adopted by the legislator or by the Commission under the CAP and financed by the EAGF comply with the annual ceiling for the expenditure financed by that Fund.

¹ *Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (OJ L 309, 24.11.2009, p. 71).*

² *Council Regulation (EC) No 165/94 of 24 January 1994 concerning the co-financing by the Community of remote-sensing checks (OJ L 24, 29.1.1994, p. 6).*

³ *Council Regulation (EU) No xxx/xxx of [...] laying down the multiannual financial framework for the years 2014-2020 (OJ L , , p.).*

- (17) With a view to ensuring that the amounts for the financing of the CAP comply with the annual ceilings, the financial mechanism referred to in Council Regulation (EC) No 73/2009¹ whereby the level of direct support is adjusted, should be maintained. In the same context, it is necessary to authorise the Commission to set those adjustments where the *European Parliament and the Council* do not fix them before 30 June of the calendar year in respect of which they apply.
- (17a) In order to support the agricultural sector in case of major crises affecting the agricultural production or distribution, a reserve for crises should be established by applying, at the beginning of each year, a reduction to direct payments with the financial discipline mechanism.*
- (17b) Article 169(3) of Regulation (EU) No 966/2012 provides that non-committed appropriations relating to the actions referred to in Article 4(1) of this Regulation may be carried over to the following financial year only and that such carryover may lead to an additional payment only to the final recipients who were subject, in the preceding financial year, to the adjustment of direct payments as referred to in Article 25 of this Regulation. Where appropriations are thus carried over to the following financial year, the national administrations would have to make payments to two populations of beneficiaries of direct payments in one financial year: reimbursing, from the unused amount of financial discipline carried-over, to farmers subject to financial discipline during the preceding financial year on the one hand and, on the other, making the direct payments in financial year N to those farmers having claimed them. In order to avoid an excessive administrative burden for national administrations, a derogation from the fourth subparagraph of Article 169(3) of Regulation (EU) No 966/2012 should be provided for, allowing the national administrations to reimburse the amount carried over to financial year N to farmers subject to financial discipline in year N instead of farmers subject to it in year N-1.*
- (18) The measures taken to determine the financial contribution from the EAGF and the EAFRD in respect of the calculation of financial ceilings do not affect the powers of the budgetary authority designated by the *TFEU*. Those measures should therefore be based on the reference amounts fixed in accordance with the Interinstitutional Agreement of [...] between the European Parliament, the Council and the Commission on cooperation in budgetary matters and on sound financial management² and Regulation (EU) No xxx/xxx [MFF].
- (19) Budget discipline also demands a continuous examination of the medium-term budget situation. The Commission, when submitting the draft budget for a given year, should therefore present its forecasts and analyses to the European Parliament and the Council and propose, if necessary, appropriate measures to the legislator. Furthermore, the Commission should make full use of its management powers at all times to ensure compliance with the annual ceiling and, if necessary, propose appropriate measures to the European Parliament and to the Council or to the Council to redress the budget situation. If, at the end of a budget year, the annual ceiling cannot be complied with as a result of the

¹ *Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ L 30, 31.1.2009, p. 16).*

² OJ L , , p. .

reimbursements requested by the Member States, the Commission should be able to take measures allowing provisional distribution of the available budget among the Member States in proportion to their requests for reimbursement not yet paid, as well as compliance with the ceiling fixed for the year concerned. Payments for that year should be charged to the following budget year and the total amount of Union financing per Member State should be definitively established, as should compensation between Member States in order to comply with the established amount.

- (20) When implementing the budget, the Commission should operate a monthly early-warning and monitoring system for agricultural expenditure ■ so that, if there is a risk of the annual ceiling being exceeded, the Commission may at the earliest opportunity take the appropriate measures under the management powers at its disposal and propose other measures if those measures appear to be insufficient. A periodic report by the Commission to the European Parliament and the Council should compare the evolution of the expenditure effected in relation to the profiles so far and give an assessment of the foreseeable implementation for the remainder of the budget year.
- (21) The exchange rate used by the Commission in drawing up the budget documents should, while making allowances for the time lag between drafting and submission, reflect the most recent information available.
- (22) Regulation (EU) No CR/xxx of the European Parliament and of the Council¹ ■ provides rules applying to the financial support from the Funds covered by that Regulation, including the EAFRD. Those provisions also include certain rules on the eligibility of expenditure, on financial management as well as the management and control systems. As regards the financial management of the EAFRD, for *the* sake of legal clarity and coherence between the agricultural Funds, reference should be made to the relevant provisions on the budget commitments, payment deadlines and decommitment of Regulation (EU) No CR/xxx.
- (23) The rural development programmes are financed from the Union budget on the basis of commitments in annual instalments. Member States should be able to draw on the Union funds provided for as soon as they begin the programmes. A suitably restricted prefinancing system ensuring a steady flow of funds so that payments to beneficiaries under the programmes are made at the appropriate time is therefore needed.
- (24) Prefinancing apart, a distinction should be drawn between payments by the Commission to the accredited paying agencies. Interim payments and payment of balances, and rules on their payment should be set. The automatic decommitment rule should help speed up execution of programmes and contribute to sound financial management. *The rules on national frameworks of Member States with regional programmes as set out in [RD] regulation also provides a tool for Member States to ensure execution and sound financial management.*

¹ *Regulation (EU) No CR/xxx of the European Parliament and of the Council of [...] laying down common provisions common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006 (OJ L, , p.).*

- (25) Union aid should be paid to beneficiaries in good time so that they may use it efficiently. A failure by the Member States to comply with the payment deadlines laid down in Union legislation could create serious difficulties for the beneficiaries and could jeopardise the Union's yearly budgeting. Therefore, expenditure made without respecting deadlines for payments should be excluded from Union financing. In order to respect the principle of proportionality, the Commission should be able to provide for exceptions to this general rule. **That** principle, laid down in Regulation (EC) No 1290/2005 should be maintained and apply to both the EAGF and the EAFRD ■ .
- (26) Regulation (EC) No 1290/2005 provides for reductions and suspensions of monthly or interim payments for the EAGF and the EAFRD. Despite the rather broad wording of those provisions, it is noticed that in practice those provisions are used essentially to reduce payments for non-respect of payment deadlines, ceilings and similar "accounting issues" which can readily be detected in the declarations of expenditure. Those provisions also allow reductions and suspensions in case of serious and persistent deficiencies in national control systems, but including rather restrictive substantive conditions for doing so and providing for a special, two-step procedure to be followed. The budgetary authority has repeatedly asked the Commission to suspend payments to non-compliant Member States. Against this background, it is necessary to clarify the system provided for in Regulation (EC) No 1290/2005 and to merge the rules on reductions and suspensions for both the EAGF and the EAFRD into one single Article. The system of reductions for "accounting issues" should be maintained ■ in line with the existing administrative practice. The possibility for reducing or suspending payments in case of significant and persistent deficiencies in national control systems should be **reinforced in order to provide the Commission with the possibility to suspend payments rapidly when serious deficiencies are detected. Such possibility should also be** extended by including negligence in the **system** for recovery of irregular payments ■ .
- (27) Sectoral agricultural legislation requires Member States to send information on the numbers of checks carried out and their outcome within specified deadlines. Those control statistics are used to determine the level of error at Member State level and, more generally, for the purposes of checking the management of the EAGF and the EAFRD. They are an important source for the Commission to satisfy itself as to the correct management of funds and are an essential element for the annual declaration of assurance. Given the vital nature of this statistical information and in order to ensure that Member States respect their obligation to send it in time, it is necessary to provide a deterrent to late provision of the data required in a manner proportionate to the extent of the data deficit. Therefore, provisions should be put in place whereby the Commission can suspend part of the monthly or interim payments for which the relevant statistical information has not been sent in time.
- (28) In order to allow reuse of EAGF and EAFRD funds, rules are needed on the assignment of specific sums. The list contained in Regulation (EC) No 1290/2005 should be completed with the sums relating to late payments and to the clearance of accounts as regards expenditure under the EAGF. Also, Council Regulation (EEC) No 352/78¹ ■ laid down rules on the destinations of the sums resulting from forfeited securities. Those

¹ **Council Regulation (EEC) No 352/78 of 20 February 1978 on the crediting of securities, deposits and guarantees furnished under the common agricultural policy and subsequently forfeited** (OJ L 50, 22.2.1978, p. 1).

provisions should be harmonised and merged with the existing provisions on assigned revenue. Regulation (EEC) No 352/78 should therefore be repealed.

- (29) Council Regulation (EC) No 814/2000¹ and its implementing rules define the information measures relating to the CAP which may be financed under point (c) of Article 5 of Regulation (EC) No 1290/2005. Regulation (EC) No 814/2000 contains a list of those measures and their objectives and fixes the rules of their financing and the implementation of the corresponding projects. Since the adoption of that Regulation, rules have been adopted by Regulation (EU) No xxx/xxx[FR] as regards grants and procurement. Those rules should apply also to the information measures under the CAP. For reasons of simplification and coherence, Regulation (EC) No 814/2000 should be repealed while maintaining the specific provisions relating to the objectives and types of measures to be financed. Those measures should also take into account the need to ensure more efficiency in communication to the public at large and stronger synergies between the communication activities undertaken at the initiative of the Commission and to ensure that the Union's political priorities are communicated effectively. Therefore, they should also cover information measures relevant to *the* CAP in the framework of the corporate communication as referred to in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Budget for Europe 2020 - Part II: Policy fiches².
- (30) The financing of measures and operations under the CAP will in part involve shared management. To ensure that Union funds are soundly managed, the Commission should perform checks on the management of the Funds by the Member State authorities responsible for making payments. It is appropriate to define the nature of the checks to be made by the Commission, to specify the terms of its responsibilities for implementing the budget and to clarify the Member States' cooperation obligations.
- (31) In order to allow the Commission to fulfil its obligation to check the existence and proper functioning of management and inspection systems for Union expenditure in the Member States, provision should be made, irrespective of the inspection carried out by Member States themselves, for checks by persons delegated by the Commission who should be able to request assistance from the Member States in their work.
- (32) Information technology needs to be used as *extensively* as possible *in order to produce* the information to be sent to the Commission. When carrying out checks, the Commission should have full and immediate access to expenditure information recorded *in both* paper and electronic *form*.
- (33) In order to establish the financial relationship between the accredited paying agencies and the Union budget, the Commission should clear the accounts of *those* paying agencies annually. The clearance of accounts decision should cover the completeness, accuracy and veracity of the accounts but not the conformity of the expenditure with Union legislation.
- (34) The Commission, which is responsible for the *implementation of the budget in cooperation with Member States in accordance with* Article 317 of the *TFEU*, should decide, *by means of implementing acts*, whether the expenditure incurred by the Member

¹ Council Regulation (EC) No 814/2000 of 17 April 2000 on information measures relating to the common agricultural policy (OJ L 100, 20.04.2000, p. 7).

² COM(2011) 500 final, p. 7.

States complies with Union legislation. Member States should be given the right to justify their decisions to make payments and should have recourse to conciliation where there is no common agreement between them and the Commission. In order to give Member States legal and financial assurances as to expenditure effected in the past, a maximum period should be set for the Commission to decide which financial consequences should follow from non-compliance. The conformity clearance procedure should be , as regards EAFRD, in line with the provisions on the financial corrections by the Commission as laid down in Part 2 of Regulation (EU) No CR/xxx .

- (35) As regards the EAGF, sums recovered should be paid back to that Fund where the expenditure is not in conformity with Union legislation and no entitlement existed. ***In order to allow sufficient time for carrying out all the necessary administrative proceedings, including internal controls, Member States should request recovery from the beneficiary within 18 months after a control report or similar document, stating that an irregularity has taken place, has been approved and, where applicable, received by the paying agency or body responsible for the recovery.*** Provision should be made for a system of financial responsibility for irregularities in the absence of total recovery. In this respect a procedure should be established permitting the Commission to safeguard the interests of the Union budget by deciding on ***a partial*** charging to the Member State concerned of the sums lost as a result of irregularities and not recovered within reasonable deadlines. The rules should apply to all sums not yet recovered by the time of the entry into force of this Regulation. In certain cases of negligence on the part of the Member State, it is also justified to charge the full sum to the Member State concerned. ***However, subject to Member States complying with obligations under their internal procedures, the financial burden should be divided fairly between the Union and the Member State. The same*** rules should apply to the EAFRD, keeping however the specificity that sums recovered or cancelled following irregularities should remain available to the approved rural development programmes of the Member State concerned as those sums have been allocated to that Member State. Provisions on the reporting obligation for Member States should be set also.
- (36) The recovery procedures used by the Member States may have the effect of delaying recovery for a number of years, with no guarantee that the outcome will actually be successful. The cost of implementing those procedures may also be out of proportion ***with*** the amounts which are or may be collected. Consequently, Member States should be permitted to halt recovery procedures in certain cases.
- (37) In order to protect the financial interests of the Union budget, measures should be taken by Member States to satisfy themselves that transactions financed by the EAGF and the EAFRD are actually carried out and are executed correctly. Member States should also prevent, detect and deal effectively with any irregularities or non-compliance with obligations committed by beneficiaries. To this end, Council Regulation (EC, Euratom) No 2988/95¹ ■ should apply. ***In cases of infringement of the sectoral agricultural legislation, where detailed rules on administrative penalties have not been laid down by Union legislative and non-legislative acts, Member States should impose national penalties which should be effective, dissuasive and proportionate.***

¹ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

- (37a) *The funding, under the CAP, of activities which generate additional costs in other policy areas covered by the general budget of the European Union, especially environment and public health, should be avoided. In addition, the introduction of new payment systems, and related monitoring and penalty systems, should not result in unnecessary additional complicated administrative procedures and red tape.*
- (38) *Rules* relating to general principles on checks, withdrawals *of undue* payments and to the imposition of penalties are contained in various sectoral agricultural regulations. Those rules should be gathered in the same legal framework at a horizontal level. They should cover the obligations of the Member States as regards administrative and on-the-spot checks, the *purpose of which shall be to check compliance with the provisions of the CAP measures, the* rules on the recovery *of*, reduction *in* and exclusions of aid. Rules on checks of obligations not necessarily linked to the payment of an aid should be laid down as well.
- (39) Various provisions of the sectoral agricultural legislation require that a security be lodged to ensure the payment of a sum due if an obligation is not met. A single horizontal rule should apply *to all those provisions in order* to strengthen the framework for securities.
- (40) Member State should operate an integrated administration and control system for certain payments provided for in Regulation (EU) No xxx/xxx [DP] and in Regulation (EU) No RD/xxx of the European Parliament and of the Council¹ . In order to improve the effectiveness and monitoring of Union support, Member States should be authorised to make use of that integrated system also for other Union support schemes.
- (41) The main elements of that integrated system and, in particular, the provisions concerning a computerised database, an identification system for agricultural parcels, aid applications or payment claims and a system for the identification and recording of payment entitlements should be maintained *whilst taking into account the evolution of the policy, in particular, the introduction of the payment for agricultural practices beneficial for the climate and the environment and the ecological benefits of landscape features. Member States should make appropriate use of technology when setting up those systems, with a view to reducing administrative burden and ensuring efficient and effective controls.*
- (41a) *For the purpose of creating a reference layer in the identification system for agricultural parcels to accommodate the ecological focus areas, Member States could take account of specific information that may be required from farmers on their applications for claim years 2015 to 2017 such as the identification of those landscape features or other areas which may qualify as ecological focus areas and, where necessary, the size of such features and other areas.*
- (42) Payments provided for in Union support schemes covered by the integrated system should be made by the competent national authorities to beneficiaries in full, subject to any reductions provided for in this Regulation, and within prescribed periods. In order to render the management of direct payments more flexible, Member States should be

¹ *Regulation (EU) No RD/xxx of the European Parliament and of the Council of Xxx on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)* (OJ L , , p.).

allowed to pay payments covered by the integrated system in up to two instalments per year.

- (43) Scrutiny of the commercial documents of undertakings receiving or making payments can be a very effective means of surveillance of transactions forming part of the system of financing by the EAGF. The provisions on the scrutiny of the commercial documents are laid down in Council Regulation (EC) No 485/2008¹ . That scrutiny supplements other checks already carried out by the Member States. Furthermore, national provisions relating to scrutiny which are more extensive than those provided for in that Regulation are not affected by it.
- (44) Under Regulation (EC) No 485/2008, Member States *should* take the measures necessary to ensure effective protection of the financial interests of the Union budget, and *in particular*, in order to check the genuineness and compliance of operations financed by the EAGF. In the interests of clarity and rationality, the relevant provisions should be integrated into the same act. Regulation (EC) No 485/2008 should therefore be repealed.
- (45) The documents used as a basis for such scrutiny should be determined in such a way as to enable a full scrutiny to be carried out. The undertakings to be scrutinised should be selected on the basis of the nature of the transactions carried out on their responsibility and the breakdown per sector of the undertakings receiving or making payments according to their financial importance in the system of financing by the EAGF.
- (46) The powers of the officials responsible for scrutiny and the obligations on undertakings to make commercial documents available to such officials for a specified period and to supply such information as may be requested by them should be defined. Provision should be made allowing commercial documents to be seized in certain cases.
- (47) Having regard to the international structure of agricultural trade and in the interest of the functioning of the internal market, it is necessary to organise cooperation among the Member States. It is also necessary to set up a centralised documentation system at Union level concerning undertakings receiving or making payments established in third countries.
- (48) While it is the responsibility of the Member States to adopt their scrutiny programmes, it is necessary that those programmes be communicated to the Commission so that it can assume its supervisory and coordinating role, in order to ensure that the programmes are adopted on the basis of appropriate criteria and to guarantee that the scrutiny is concentrated on sectors or undertakings where the risk of fraud is high. It is essential that each Member State has a special department responsible for monitoring the scrutiny of commercial documents provided for in this Regulation or for coordinating that scrutiny. Those special departments should be organised independently of the departments carrying out scrutiny prior to payment. Information collected during that scrutiny should be protected by professional secrecy.

¹ *Council Regulation (EC) No 485/2008 of 26 May 2008 on scrutiny by Member States of transactions forming part of the system of financing by the European Agricultural Guarantee Fund* (OJ L 143, 3.6.2008, p. 1).

(49) Council Regulation (EC) No 1782/2003¹ , which was replaced by Regulation (EC) No 73/2009, established the principle that the full payment to beneficiaries of some supports under the CAP should be linked to compliance with rules relating to land management, agricultural production and agricultural activity. That principle was subsequently reflected in Council Regulation (EC) No 1698/2005² and Council Regulation (EC) No 1234/2007³ .

Under this so-called 'cross compliance' system Member States are to impose penalties in the form of reduction or exclusion of support received under the CAP in whole or in part.

(50) The cross compliance system incorporates in the CAP basic standards for the environment, climate change, good agricultural and environmental condition of land, public health, animal health, plant health and animal welfare. *That* link aims at contributing to the development of a sustainable agriculture through a better awareness of beneficiaries of the need to respect those basic standards. It aims also at contributing to make the CAP more compatible with the expectation of the society through a better consistency of that policy with the environment, public health, animal health, plant health and animal welfare policies. The cross compliance system forms an integral part of the CAP and should therefore be maintained. *Its* scope, *however*, which consists so far in separate lists of statutory management requirements and standards of good agricultural and environmental condition of land should be streamlined so that its consistency is ensured and made more visible. For this purpose, the requirements and standards should be organised in a single list and grouped by areas and issues. Experience has also shown that a number of the requirements within the scope of cross compliance are not sufficiently relevant to farming activity or the area of the holding or concern national authorities rather than beneficiaries. It is therefore appropriate to adjust this scope in this respect. Provision should furthermore be made for the maintenance of permanent *pasture in 2015 and 2016*.

(53) Statutory management requirements need to be fully implemented by Member States in order to become operational at farm level and ensure the necessary equal treatment between farmers.

(56) According to Article 22 of Directive 2000/60/EC, Council Directive 80/68/EEC⁴ shall be repealed on 23 December 2013. In order to maintain the *same* rules under cross compliance *relating* to protection of groundwater *as laid down in Directive 80/68/EEC*

¹ *Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001* (OJ L 270, 21.10.2003, p. 1).

² *Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)* (OJ L 277, 21.10.2005, p. 1).

³ *Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)* (OJ L 299, 16.11.2007, p. 1).

⁴ *Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances* (OJ L 20, 26.1.1980, p. 43).

on the last day of its validity, it is appropriate ■ to adjust the scope of cross-compliance and to define a standard of good agricultural and *environ mental* condition encompassing the requirements of Articles 4 and 5 of *that* Directive ■ .

- (57) The cross compliance system implies certain administrative constraints for both beneficiaries and national administrations since record keeping must be ensured, checks must be carried out and penalties have to be applied where necessary. Those penalties should be proportionate, effective and dissuasive. Such penalties should be without prejudice to other penalties laid down under other provisions of Union or national law. For the sake of consistency, it is appropriate to merge the relevant Union provisions into one single legal instrument. For farmers participating in the small farmers scheme referred to in Title V of Regulation (EU) No xxx/xxx[DP], the efforts to be made under the cross compliance system may be considered as exceeding the benefit of keeping those farmers under that system. For reasons of simplification, those farmers should therefore be exempted from cross compliance and in particular from its control system and from the risk of cross compliance penalties. However, that exemption should be without prejudice to the obligation to respect the applicable provisions of the sectoral legislation and to the possibility to be checked and to be imposed penalties under that legislation.
- (58) Regulation (EC) No 1782/2003 established a framework of standards of good agricultural and environmental condition of the land within which Member States are to adopt national standards taking account of the specific characteristics of the areas concerned, including soil and climatic conditions and existing farming systems (land use, crop rotation, farming practices) and farm structures. Those standards of good agricultural and environmental condition of the land aim at contributing to prevent soil erosion, maintain soil organic matter and soil structure, ensure a minimum level of maintenance, avoid the deterioration of habitats and protect and manage water. The wider scope of the cross compliance system as laid down in this Regulation should therefore include a framework within which Member States should adopt national standards of good agricultural and environmental condition. The Union framework should also include rules to better address water, soil, carbon stock, biodiversity and landscape issues as well as minimum level of maintenance of the land.
- (59) Beneficiaries should know clearly what they have to comply with in relation to the rules on cross compliance. For that purpose, all requirements and standards forming part of those rules should be communicated by Member States in an exhaustive, understandable and explanatory way, including, where possible, by electronic means.
- (60) An effective implementation of cross compliance requires verification at beneficiaries' level that obligations are respected. Where a Member State decides to make use of the option not to apply a reduction or exclusion where the amount concerned is less than EUR 100, the competent control authority should, for a sample of beneficiaries in the following year, verify that the findings of the non-compliance concerned have been remedied.
- (61) To ensure harmonious cooperation between the Commission and the Member States regarding the financing of CAP expenditure and, more particularly, to allow the Commission to monitor the financial management by the Member States and clear the accounts of the accredited paying agencies, certain information has to be communicated by the Member States or to be kept available to the Commission.

- (62) For the purposes of compiling the data to be sent to the Commission, and to allow the Commission to have full immediate access to expenditure data in both paper and electronic form, suitable rules on the presentation and transmission of data, including rules on time limits, need to be laid down.
- (63) As personal data or business secrets might be involved in the application of the national control systems and the conformity clearance, the Member States and the Commission should guarantee the confidentiality of the information received in that context.
- (64) In the interests of sound financial management of the Union budget and impartiality of treatment at both Member State and beneficiary level, rules on the use of the euro should be laid down.
- (65) The rate of exchange of the euro into national currency may vary in the course of the period during which an operation is carried out. Therefore, the rate applicable to the amounts concerned should be determined taking into account the event through which the economic objective of the operation is achieved. The rate of exchange applied should be that of the date on which this event occurs. It is necessary to specify this operative event or to waive its application, observing certain criteria and in particular the rapidity with which currency movements are passed on. Those rules are laid down in Council Regulation (EC) No 2799/98¹ and they complete similar provisions of Regulation (EC) No 1290/2005. In the interests of clarity and rationality the relevant provisions should be integrated into the same act. Regulation (EC) No 2799/98 should therefore be repealed.
- (66) Special rules should be laid down for dealing with exceptional monetary situations arising either within the Union or on the world market and requiring immediate action to ensure that the arrangements established under the CAP operate effectively.
- (67) Member States not having adopted the euro should have the option of making payments for expenditure resulting from the CAP legislation in euro rather than in national currency. Specific rules are needed to ensure that this option does not lead to any unjustified advantage for parties making or receiving payment.
- (68) Each measure under the CAP should be subject to monitoring and evaluation in order to improve its quality and demonstrate its achievements. In this context a list of indicators should be determined and the *performance* of the CAP policy assessed by the Commission in relation to *the policy objectives of viable food production, the sustainable management of natural resources and climate action and balanced territorial development. In assessing, in particular, the performance of the CAP in relation to the objective of viable food production, all relevant factors, including the evolution of input prices, should be taken into account.* The Commission should set up a framework for a common monitoring and evaluation *system* ensuring among others that relevant data, including information from Member States is available on a timely manner. In so doing it should take into account the data needs and synergies between potential data sources. Moreover, the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Budget for Europe 2020 - Part II stated that the climate related expenditure in

¹ *Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro* (OJ L 349, 24.12.1998, p. 1).

the overall Union budget should increase to at least 20 %, with contribution from different policies. The Commission should therefore be able to assess the impact of the Union's support in the framework of the CAP to climate objectives.

- (69) Union legislation concerning the protection of individuals with regard to the processing of personal data and on the free movement of such data, in particular Directive 95/46/EC of the European Parliament and of the Council¹ and Regulation (EC) No 45/2001 of the European Parliament and of the Council² are applicable.
- (70) In its judgment *of 9 November 2010* in Joined Cases C-92/09 and 93/09³ the Court of Justice of the European Union declared *invalid point (8b) of Article 42 and Article 44a of Regulation (EC) No 1290/2005 and Commission Regulation (EC) No 259/2008³ in so far as, with regard to natural persons benefiting from the European agricultural funds, those provisions impose an obligation to publish personal data relating to each beneficiary without drawing a distinction based on relevant criteria such as the periods during which those persons have received such aid, the frequency of such aid or the nature and amount thereof.*
- (70a) *Following that judgment and pending the adoption of new rules taking account of the objections expressed by the Court, Regulation (EC) No 259/2008 was amended by Commission Implementing Regulation (EU) No 410/2011⁴ in order to lay down explicitly that the obligation to publish the information on the beneficiaries does not apply to natural persons.*
- (70b) *In September 2011, the Commission organised a consultation of stakeholders gathering representatives of professional agricultural or trade organisations, representatives of the food industry and workers, as well as of the civil society and Union institutions. In that framework different possible options have been put forward in relation to the publication of data of natural persons benefiting from Union agricultural funds and the respect of proportionality while making public the concerned information. The stakeholders conference discussed the potential need for the publication of the name of the natural persons in order to respond to the objective of a better protection of the Union's financial interests, to enhance transparency and to*

¹ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

² Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

³ Commission Regulation (EC) No 259/2008 of 18 March 2008 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the publication of information on the beneficiaries of funds deriving from the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) (OJ L 76, 19.3.2008, p. 28).

⁴ Commission Implementing Regulation (EU) No 410/2011 of 27 April 2011 amending Regulation (EC) No 259/2008 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the publication of information on the beneficiaries of funds deriving from the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) (OJ L 108, 28.4.2011, p. 24).

highlight the achievements of beneficiaries in providing public goods while ensuring that it does not go beyond what is necessary for achieving these legitimate aims.

(70ba) In its judgment of 9 November 2010, the Court did not contest the legitimacy of the objective of reinforcing public control of the use of the money from the EAGF and the EAFRD. However, the Court emphasised the need to consider methods of publishing information on the beneficiaries concerned which would be consistent with the objective of such publication while at the same time causing less interference with those beneficiaries' right to respect for their private life in general and to protection of their personal data in particular.

(70c) The objective of reinforcing public control in respect of individual beneficiaries should be analysed in the light of the new financial management and control framework to be applied as from 1 January 2014 and in the light of experience gained in the Member States. In the context of this framework, the controls by the national administrations cannot be exhaustive and, in particular, for almost all schemes only a limited part of the population can be checked on-the-spot. Moreover, the new framework provides that, under certain conditions, Member States may reduce the number of on-the-spot checks.

A sufficient increase of the minimum control rates would, in the present context, put such additional financial and administrative burden on the national administrations that it would simply not be possible to achieve.

(70cb) Against that background, the publication of the name of the beneficiaries of the agricultural funds provides a means to reinforce the public control of the use of those funds and, therefore, is a useful addition to the existing management and control framework that is necessary to ensure an adequate level of protection of the Union's financial interest. This is achieved partly by the preventive and deterrent effect of such publication, by discouraging individual beneficiaries from irregular behaviour and at the same time by reinforcing the personal accountability of the farmers for use of public funds received.

(70ca) In this context the role played by civil society, including by media and non-governmental organisations and their contribution to reinforcing the administrations' control framework against fraud and any misuse of the public funds should be properly recognised.

(70cc) The publication of the relevant information is also consistent with the approach in Recital (16) and Article 35(3) of Regulation (EU) No 966/2012.

(70cd) Alternatively, the objective of reinforcing public control in respect of individual beneficiaries could be served by providing for an obligation on Member States to ensure public access to the relevant information upon request, without publication. However, this alternative would be less effective and would risk creating unwanted divergencies in the implementation. Thus, the national authorities should be enabled to rely on the public control in respect of individual beneficiaries through the publication of their names and other relevant data.

(70d) The objective of the public control of the use of the money from the EAGF and the EAFRD pursued with the publication of beneficiaries may be achieved only by ensuring a certain degree of information to be delivered to the knowledge of the public. That

information should include data on the identity of the beneficiary, the amount awarded and under which of the funds, the purpose and the nature of the measure concerned. The publication of that information should be made in such a way as to cause less interference with the beneficiaries' right to respect for their private life in general and to protection of their personal data in particular, rights recognised by Articles 7 and 8 of the Charter of Fundamental Rights of the European Union.

- (70da) In order to ensure that this Regulation complies with the principle of proportionality, the legislator has explored all the alternative means of attaining the objective of public control of the use of the money from the EAGF and the EAFRD, as analysed in a memorandum, and has chosen the one which would cause the least interference with the individual rights concerned.*
- (70e) Publishing details about the measure entitling the farmer to receive aid, the nature and the purpose of the aid would provide concrete knowledge to the public on the subsidised activity and the purpose for which the subsidy was granted. This would also contribute to the preventive and deterrent effect of the public control in the protection of the financial interest.*
- (70f) In order to observe a balance between the pursued objective of the public control of the use of the money from the EAGF and the EAFRD on the one hand and the beneficiaries' right to respect for their private life in general and to protection of their personal data on the other hand, the importance of the aid should be taken into account. Following the extensive analysis and the consultation with the stakeholders it appeared that in order to reinforce the effectiveness of such publication and to limit the interference with the beneficiaries' rights, a threshold should be set as regards the amount of aid received below which the name of the beneficiary should not be published.*
- (70g) The threshold should be of a de-minimis character and should reflect and be based on the level of the support schemes set up within the framework of the CAP. As the structures of the Member States' agricultural economies vary considerably and may differ significantly from the average Union farm structure, the application of different minimum thresholds that reflect the particular situation of the Member States should be allowed. Regulation xxx/xxx [DP] sets out a simple and specific scheme for small farms. Article 49 of that Regulation lays down criteria for calculating the amount of aid. For reasons of consistency, in the case of Member States applying the scheme, the threshold to be taken into account should be set at the same level as the amounts fixed by the Member State as referred to in Article 49(1) second subparagraph or Article 49(2) second subparagraph of Regulation xxx/xxx . In the case of Member States deciding not to apply the above scheme, the threshold to be taken into account should be set at the same level as the maximum amount of aid possible under the scheme, as provided for in Article 49 of Regulation xxx/xxx [DP]. Below that specific threshold the publication should contain all the relevant information, except for the name, in order to allow the taxpayers to have an accurate image of the CAP.*
- (70h) Making that information accessible to the public, in combination with the general information to the public provided for in this Regulation, enhances transparency regarding the use of Union funds in the CAP, thus contributing to the visibility and better understanding of that policy. It enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater*

legitimacy and is more effective and more accountable to the citizen. It would also help citizens to witness concrete examples of the provision of "public goods" by farming and underpin the legitimacy of state support for the agricultural sector.

- (70i) *In light of the above, it must be considered that providing for the general publication of the relevant information does not go beyond what is necessary in a democratic society and for the protection of the Union's financial interests, having in mind also the overriding weight of the pursued objective of the public control of the use of the money from the EAGF and the EAFRD.*
- (70j) *To comply with the data protection requirements, beneficiaries of the Funds should be informed of the publication of their data and that the data may be processed by auditing and investigating bodies of the Union and the Member States for the purpose of safeguarding the Union's financial interests before the publication takes place. Furthermore, the beneficiaries should be informed about their rights under Directive 95/46/EC and the procedures applicable for exercising these rights.*
- (70k) *As a consequence, following an in-depth analysis and assessment of the most appropriate way to observe the right to protection of personal data of the beneficiaries, based also on the information provided by the Commission during the negotiations of this Regulation, new rules on the publication of information on all the beneficiaries of agricultural Funds should be laid down.*
- (71) *In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission.*
- (71a) *The implementing powers relating to: the procedures for the issuing, withdrawing and reviewing accreditation of paying agencies and coordinating bodies as well as for the supervision of the accreditation of paying agencies; the rules on the work and checks underlying the management declaration of the paying agencies, the functioning of the coordinating body and the notification of information to the Commission by that coordinating body; the rules concerning the tasks of the certification bodies, including the checks, as well as the certificates and the reports, together with the documents accompanying them, to be drawn up by those bodies, the audit principles on which the opinions of the certification body are based, including an assessment of the risks, internal controls and required level of audit evidence, the audit methods to be used by the certification bodies, having regard to international standards on auditing, to deliver their opinions, including, where appropriate, use of a single integrated sample for each population and, where appropriate, the possibility to accompany paying agencies' on-the-spot checks; rules for the uniform implementation of the farm advisory system; the determination of the EAGF monthly payments to the Member States; the setting of the amounts for the financing of public intervention measures; rules relating to the financing of the acquisition by the Commission of the satellite images required for the checks and the measures taken by the Commission via remote-sensing applications used for the monitoring of agricultural resources; the procedure for the carrying out of the acquisition by the Commission of those satellite images and the monitoring of agricultural resources, the framework governing the acquisition, enhancing and utilisation of satellite images and meteorological data, and the applicable deadlines; in the context of the financial discipline procedure, the adjustment rate of the direct payments as well as its adaptation as well as the terms and conditions applicable to appropriations carried over in accordance with Article 169(3) of Regulation (EU) No*

966/2012 in order to finance the direct payments; in the context of the budget discipline procedure, the provisional setting of the amount of the payments and the provisional distribution of the available budget among the Member States; the setting of the period within which the accredited paying agencies must establish and forward intermediate declarations of expenditure relating to rural development programmes to the Commission; the reduction or suspension of the monthly or interim payments to Member States, details on the keeping of separate accounts by the paying agencies; specific conditions applying to the information to be booked in the accounts kept by the paying agencies; rules on the financing and accounting of intervention measures in the form of public storage, and other expenditure financed by the EAGF and the EAFRD, the terms and conditions governing the implementation of the automatic decommitment procedure, the procedure and other modalities for the proper functioning of the suspension of payments by the Commission to Member States in case of late submission of information by Member States; the procedures relating to the specific obligations which the Member States have to comply with in relation to checks; the procedures relating to the cooperation obligations to be complied with by the Member States as regards the on-the-spot checks by the Commission and access to information; the modalities of the obligation to report irregularities and fraud, the conditions under which the supporting documents relating to payments made and documents relating to the performance of the administrative and physical checks required by the Union legislation must be kept; the clearance of accounts and the conformity clearance, the exclusion from Union financing of sums charged to the Union budget, the procedures for the recovery of undue payments and interest, the forms of notification and communication to be made by the Member States to the Commission in relation to irregularities; rules aiming at reaching a uniform application of Member States' obligations regarding the protection of the financial interests of the Union, the necessary rules aiming at reaching a uniform application of control systems and penalties in the Union, the application and calculation of the partial or total withdrawal of payments or payment entitlements; the recovery of undue payments and penalties as well as in respect of unduly allocated payment entitlements and the application of interest, the application and the calculation of the administrative penalties, the detailed rules for identifying a non-compliance as minor, the rules identifying the cases where, due to the nature of the penalties, Member States may retain the penalties recovered, the suspension of monthly payments in specific cases covered by Regulation (EU) No xxx/xxx [sCMO], the form of the securities to be lodged and the procedure for lodging the securities, for accepting them, and for replacing the original securities; the procedures for the release of securities and the notification to be made by Member States or by the Commission in the context of securities; rules which are both necessary and justifiable in an emergency in order to resolve specific problems in relation to payment periods and the payment of advances; rules on the aid application and payments claims, the application for payment entitlements, including the final date for submission of applications, the requirements as to the minimum amount of information to be included in the application, provisions for amendments to or the withdrawal of aid applications, exemption from the requirement to submit an aid application and provisions which allow Member States to apply simplified procedures or to correct obvious errors; rules on the carrying out of checks in order to verify compliance with obligations, and the correctness and completeness of the information provided in the aid application or payment claim, including rules on measurement tolerances for on-the-

spot checks, technical specifications needed for the purpose of the uniform implementation of the integrated administration and control system; rules on situations of transfer of holdings accompanied by the transfer of any obligation concerning eligibility in respect of the aid in question which still needs to be fulfilled; rules on the payment of advances; rules aiming at reaching a uniform application of the rules on the scrutiny of commercial documents; the procedures relating to Member States' own databanks and to the analytical databank of isotopic data that will help detect fraud; the procedures relating to cooperation and assistance between control authorities and bodies, rules for performing the checks for compliance with marketing standards, rules on the authorities responsible for performing the checks, as well as on the content, the frequency and the marketing stage to which those checks shall apply; in the context of the checks related to designation of origin and geographical indications and protected traditional terms, the communications to be made by the Member States to the Commission; the rules on the authority responsible for the verification of compliance with the product specification, including where the geographical area is a third country, the actions to be implemented by the Member States to prevent the unfaithful use of protected designations of origin, protected geographical indications and protected traditional terms, the checks and verifications to be carried out by Member States, including testing; rules on the carrying out of checks in order to verify compliance with the cross-compliance obligations; detailed procedural and technical rules concerning the calculation and application of administrative penalties for non-compliance with cross-compliance requirements; rules pertaining to communication of information by Member States to the Commission as referred to in Article 104; measures to safeguard the application of Union legislation if exceptional monetary practices related to national currency are likely to jeopardise it; the set of indicators specific to the monitoring and evaluation of the CAP; rules on the information to be sent by the Member States to the Commission for the purposes of the monitoring and evaluation of the CAP; rules on the form and the calendar of the publication of the beneficiaries of the EAGF and the EAFRD, the uniform application of the informing of the beneficiaries that their data will be made public, the cooperation between the Commission and Member States in the context of the publication of the beneficiaries of the EAGF and the EAFRD should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹.

- (72) The advisory procedure should be used for the adoption of certain implementing acts. With regard to the implementing acts involving the calculations of amounts by the Commission the advisory procedure enables the Commission to fully assume its responsibility of managing the budget and aims at increased efficiency, predictability and rapidity, taking into account the time limits and the budgetary procedures. With regard to the implementing acts within the framework of the payments made to the Member States and the operation of the clearance of accounts procedure, the advisory procedure enables the Commission to fully assume its responsibility of managing the budget and verifying the annual accounts of the national paying agencies with a view to accepting such accounts or, in the case of expenditure not effected in compliance with Union rules, to

¹ *Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).*

excluding such expenditure from Union financing. In other cases, the examination procedure should be used for the adoption of implementing acts.

- (73) The Commission should **■** be empowered to ***adopt implementing acts*** concerning the setting of the net balance available for EAGF expenditure ***and making supplementary payments or deductions in the context of the procedure for monthly payments without applying*** Regulation (EU) No 182/2011 **■** .
- (74) The transition from the provisions of the Regulations repealed by this Regulation to those in this Regulation could give rise to practical and specific difficulties. In order to deal with those possible difficulties, provision should be made for the Commission to adopt the necessary and duly justified measures.
- (75) As the programming period for the rural development programmes financed on the basis of this Regulation runs from 1 January 2014, this Regulation should be applicable as from that date. However, certain provisions ***relating*** in particular to the financial management of the ***Funds*** should apply as from an earlier date corresponding to the beginning of the financial year.
- (76) ***The European Data Protection Supervisor was consulted and adopted an opinion¹.***
- (77) ***Since the objectives of this Regulation cannot be sufficiently achieved by the Member States given the links between it and the other instruments of the CAP, the limits on the financial resources of the Member States in an enlarged Union, and can therefore be better achieved at Union level through the multiannual guarantee of Union finance and by concentrating on its priorities, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article 5, this Regulation does not go beyond what is necessary in order to achieve those objectives,***

HAVE ADOPTED THIS REGULATION:

■

TITLE I

SCOPE AND DEFINITIONS

Article 1

Scope

This Regulation lays down the rules on:

- (a) the financing of expenditure under the ***CAP***, including expenditure on rural development;
- (b) the farm advisory system;
- (c) the management and control systems to be put in place by the Member States;

¹ ***OJ C 35, 9.2.2012, p. 1, and OJ C 100, 6.4.2013, p. 10.***

- (d) the cross-compliance system;
- (e) clearance of accounts.

Article 2 Terms used in this Regulation

1. For the purpose of this Regulation:

- (a) "farmer", "agricultural activity" **and** "agricultural area" **mean a farmer, an agricultural activity and an agricultural area within the meaning of Article 4 of Regulation (EU) xxx/xxx[DP]** ;
- (b) "**holding**" **means holding within the meaning of Article 4 of Regulation (EU) xxx/xxx[DP], save as provided for in Article 91(3) for the purpose of Title VI of this Regulation;**
- (c) "**direct payments**" **means direct payments within the meaning of Article 1 of Regulation (EU) xxx/xxx[DP];**
- (d) "**sectoral agricultural legislation**" **means any applicable acts adopted on the basis of Article 43 TFEU within the framework of the CAP as well as, where applicable, any delegated or implementing acts adopted on the basis of such acts, and Part Two of Regulation (EU) No [CR/2012] insofar as it applies to the EAFRD;**
- (e) "**irregularity**" **means an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95.**

2. "Force majeure" and "exceptional circumstances" as used in this Regulation in relation to Regulation (EU) xxx/xxx[DP], Regulation (EU) xxx/xxx[sCMO] and Regulation (EU) xxx/xxx[RD] may in particular be recognised in cases such as:

- (a) the death of the beneficiary;
- (b) long-term professional incapacity of beneficiary;
- (c) a severe natural disaster gravely affecting the holding;
- (d) the accidental destruction of livestock buildings on the holding;
- (e) an epizootic **or a plant disease** affecting part or all of the beneficiary's livestock **or crops respectively**;
- (f) expropriation of **all or** a large part of the holding if that could not have been anticipated on the day of lodging the application.

TITLE II GENERAL PROVISIONS ON AGRICULTURAL FUNDS

Chapter I Agricultural Funds

Article 3
Funds financing agricultural expenditure

1. In order to achieve the objectives of the **CAP** as defined by the **TFEU**, the financing of the various measures falling under it, including rural development shall be made by:
 - (a) the **EAGF**;
 - (b) the **EAFRD**.
2. The EAGF and the EAFRD shall come under the general budget of the European Union.

Article 4
EAGF expenditure

1. The EAGF shall be implemented in shared management between the Member States and the Union and shall finance the following expenditure, which shall be effected in accordance with Union legislation:
 - (a) measures regulating or supporting agricultural markets;
 - (b) direct payments to farmers under the **CAP**;
 - (c) the Union's financial contribution to information and promotion measures for agricultural products on the internal market of the Union and in third countries, undertaken by Member States on the basis of programmes other than those referred to in Article 5 and selected by the Commission;
 - (d) the Union's financial contribution to the Union School Fruit Scheme and to the measures in relation to animal diseases and loss of consumer confidence referred to in Articles 21 and 155 of Regulation (EU) No xxx/xxx [sCMO] respectively.
2. The EAGF shall finance the following expenditure in a direct manner and in accordance with Union legislation:
 - (a) promotion of agricultural products, undertaken either directly by the Commission or via international organisations;
 - (b) measures, **taken** in accordance with Union legislation, to ensure the conservation, characterisation, collection and utilisation of genetic resources in agriculture;
 - (c) establishment and maintenance of agricultural accounting information systems;
 - (d) agricultural survey systems, including surveys on the structure of agricultural holdings.

Article 5
EAFRD expenditure

The EAFRD shall be implemented in shared management between the Member States and the Union and shall finance the Union's financial contribution to rural development programmes implemented in accordance with the Union legislation on support for rural development **■** .

Article 6
Other expenditure, including technical assistance

The EAGF and the EAFRD may each, respectively, finance on a direct manner, on the initiative of the Commission and/or on its behalf, the preparatory, monitoring, administrative and technical support, as well as evaluation, audit and inspection measures required to implement the **CAP**. Those measures shall include, in particular:

- (a) measures required for the analysis, management, monitoring, information exchange and implementation of the **CAP**, as well as measures relating to the implementation of control systems and technical and administrative assistance;
- (b) the acquisition by the Commission of the satellite images required for the checks in accordance with Article 21;
- (c) the measures taken by the Commission via remote-sensing applications used for the monitoring of agricultural resources in accordance with Article 22;
- (d) measures required to maintain and develop methods and technical means for information, interconnection, monitoring and control of the financial management of the funds used to finance the **CAP**;
- (e) provision of information on the **CAP** in accordance with Article 47;
- (f) studies on the **CAP** and evaluation of measures financed by the EAGF and the EAFRD, including improvement of evaluation methods and exchange of information on practices;
- (g) where relevant, executive agencies set up in accordance with Council Regulation (EC) No 58/2003¹, acting in connection with the **CAP**;
- (h) measures relating to dissemination of information, raising awareness, promoting cooperation and exchanging experience at Union level, *taken* in the context of rural development, including networking of the parties concerned;
- (i) measures required for the development, registration and protection of logos within the framework of the Union quality policies and for the protection of intellectual property rights linked to it, as well as the necessary information technology (IT) developments.

Chapter II

Paying agencies and other bodies

Article 7

Accreditation and withdrawal of accreditation of paying agencies and coordinating bodies

1. Paying agencies shall be departments or bodies of the Member States responsible for the management and control of expenditure referred to in Article 4(1) and Article 5.

With the exception of payment, the execution of those tasks may be delegated.

2. Member States shall accredit as paying agencies departments or bodies which *have an administrative organisation and a system of internal control which provide sufficient guarantees that payments are legal and regular and properly accounted for. To this end, paying agencies shall comply with minimum conditions for the accreditation with regard to internal environment, control activities, information and communication and monitoring* laid down by the Commission pursuant to Article 8(1)(a).

¹ OJ L 11, 16.1.2003, p. 1.

Each Member State shall, taking into account its constitutional provisions, restrict the number of its accredited paying agencies to ***no more than*** one per Member State or one per region, where applicable. However, where paying agencies are established at regional level, Member States shall, in addition, ***either*** accredit a paying agency at national level for aid schemes which, by their nature, have to be managed at national level ***or confer the management of these schemes to its regional paying agencies.***

By way of derogation from the second subparagraph, Member States may maintain the number of paying agencies which have been accredited before the entry into force of this Regulation.

Before the end of 2016, the Commission shall present a report to the Council and the European Parliament on the operation of the system of paying agencies in the Union accompanied, where appropriate, by legislative proposals.

3. By 15 February of the year following the financial year concerned, the person in charge of the accredited paying agency shall draw up:
 - (a) the annual accounts for the expenditure made in the execution of the tasks entrusted to their accredited paying agencies, accompanied by the requisite information for their clearance in accordance with Article 53;
 - (b) a management declaration ■ as to the completeness, accuracy and veracity of the accounts ***and*** the proper functioning of the internal control systems, ***based on objective criteria***, as well as to the legality and regularity of the underlying transactions ■ ;
 - (c) ***an annual*** summary of the ***final audit reports and of controls*** carried out, including an analysis of ***the nature and extent of the errors and of weaknesses in systems identified***, as well as corrective ***action to be*** taken or planned.

The deadline of 15 February may be exceptionally extended by the Commission to 1 March at the latest, upon communication by the Member State concerned.

4. Where more than one paying agency is accredited, the Member State shall designate a ***public*** body ■ (the "coordinating body"), to which it assigns the following tasks:
 - (a) to collect the information to be made available to the Commission and to send that information to the Commission;
■
 - (c) ***to take or coordinate, as the case may be, actions with a view to resolving*** any deficiencies of a common nature and ***keep*** the Commission ■ informed of the follow-up;
 - (d) to promote and, ***where possible***, ensure harmonised application of the Union rules.

The coordinating body shall be subject to specific accreditation by the Member States as regards the processing of the financial information referred to in point (a) of the first subparagraph.

5. Where an accredited paying agency does not meet or no longer meets one or more of the accreditation criteria referred to in paragraph 2, the Member State, ***on its own initiative or at the request of the Commission***, shall withdraw its accreditation unless the paying

agency makes the necessary changes within a period to be determined according to the severity of the problem.

6. The paying agencies shall manage and ensure control of the operations linked to public intervention for which they are responsible and they shall retain overall responsibility in that field.

Article 8 Commission powers

1. To ensure the sound operation of the system provided for in Article 7, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning:
 - (a) *the minimum conditions for the accreditation of paying agencies and of coordinating bodies as referred to in Article 7(2) and in Article 7(4), respectively;*
■
 - (b) the obligations of the paying agencies as regards public intervention, as well as *the rules* on the content of their management and control responsibilities.
2. The Commission shall lay down, by means of implementing acts, rules on:
 - (a) *the procedures for the issuing, withdrawing and reviewing accreditation of paying agencies and coordinating bodies, as well as for the supervision of the accreditation of paying agencies ;*
 - (b) *rules on the work and checks underlying the management declaration of the paying agencies ;*
 - (c) the functioning of the coordinating body and the notification of information to the Commission as referred to in Article 7(4).

Those implementing acts ■ shall be adopted in accordance with the examination procedure referred to in Article 112(3).

Article 9 Certification bodies

1. The certification body shall be a public or private audit body designated by the Member State. *Where it is a private audit body, and the applicable Union or national law so requires, it shall be selected by the Member State by means of a public tendering procedure. It shall provide an opinion, drawn up in accordance with internationally accepted audit standards, on the completeness, accuracy and veracity of the annual accounts of the paying agency, the proper functioning of its internal control system and the legality and regularity of the expenditure for which reimbursement has been requested from the Commission. The opinion shall also state whether the examination puts in doubt the assertions made in the management declaration.*

It shall be operationally independent from ■ the paying agency *and the coordinating body* concerned *as well as from* the authority which has accredited that agency *and shall have the necessary technical expertise.*

2. The Commission shall, by means of implementing acts, lay down rules concerning the *tasks* of the certification bodies, ■ including the checks, ■ as well as the certificates and

the reports, together with the documents accompanying them, to be drawn up by those bodies. *Taking into account the need for maximal efficiency, of transaction testing and professional audit judgment, in respect of an integrated approach, the implementing acts shall also lay down:*

- (a) *the audit principles on which the opinions of the certification body are based, including an assessment of the risks, internal controls and required level of audit evidence;*
- (b) *the audit methods to be used by the certification bodies, having regard to international standards on auditing, to deliver their opinions, including, where appropriate, use of a single integrated sample for each population and, where appropriate, the possibility to accompany paying agencies' on-the-spot checks.*

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

Article 10

Admissibility of payments made by the paying agencies

The expenditure referred to in Article 4(1) and in Article 5 may be covered by Union financing only if it has been effected by accredited paying agencies.

Article 11

Payment in full to beneficiaries

Save explicitly provided otherwise in the Union legislation, payments relating to the financing provided for in this Regulation shall be disbursed in full to the beneficiaries.

TITLE III

FARM ADVISORY SYSTEM

Article 12

Principle and scope

1. Member States shall establish a system of advising beneficiaries on land **management** and farm management (**'farm advisory system'**) operated by **designated public bodies and/or selected private bodies**.
2. The farm advisory system shall cover at least:
 - (a) **obligations at farm level deriving from** the statutory management requirements and the standards for good agricultural and environmental condition of land as laid down in Chapter I of Title VI;
 - (b) the agricultural practices beneficial for the climate and the environment as laid down in Chapter 2 of Title III of Regulation (EU) No xxx/xxx [DP] and the maintenance of the agricultural area as referred to in Article 4(1)(c) of Regulation (EU) No xxx/xxx [DP];

- (c) *measures at farm level provided for in rural development programmes aiming at farm modernisation, competitiveness building, sectoral integration, innovation, market orientation as well as the promotion of entrepreneurship ;*
 - (d) *requirements at the level of beneficiaries as defined by Member States for implementing Article 11 (3) of Directive 2000/60/EC establishing a framework for Community action in the field of water policy ;*
 - (e) *requirements at the level of beneficiaries as defined by Member States for implementing Article 55 of Regulation (EC) No 1107/2009, in particular the compliance with the general principles of integrated pest management as referred to in Article 14 of Directive 2009/128/EC establishing a framework for Community action to achieve the sustainable use of pesticides.*
3. The farm advisory system may also cover in particular:
- (a) *the promotion of conversions of farms and the diversification of their economic activity;*
 - (b) *risk management and the introduction of appropriate preventive actions to address natural disasters, catastrophic events and animal and plant diseases ;*
 - (c) the minimum requirements established by national legislation, as referred to in Article 29(3) and 30(2) of Regulation (EU) No xxx/xxx [RD];
 - (d) *the information related to climate change mitigation and adaptation, biodiversity and protection of water as laid down in Annex I to this Regulation.*

Article 13

Specific requirements relating to the farm advisory system

1. Member States shall ensure that the advisors **working** within the farm advisory system are suitably qualified and regularly trained.
2. Member States shall ensure the separation between advice and control. In **that** respect and without prejudice to national legislation concerning public access to documents, Member States shall ensure that the **selected and** designated bodies **as** referred to in Article 12(1) do not disclose personal or individual information and data they obtain in **the course of** their advisory activity to persons other than the beneficiary managing the holding concerned, with the exception of any irregularity or infringement found during **the course of** their activity which is covered by an obligation laid down in Union or national law to inform a public authority, in particular in the case of criminal offences.
3. The ■ national authority shall provide the **potential** beneficiary ■ with the appropriate list of **selected and** designated bodies **as referred in Article 12(1) primarily by electronic means**.

Article 14

Access to the farm advisory system

Beneficiaries **and farmers** not **receiving** support under the **CAP** may use the farm advisory system on a voluntary basis.

Without prejudice to the fourth subparagraph of Article 99(2), Member States may determine, **however**, in accordance with objective criteria, the categories of beneficiaries that

have priority access to the farm advisory system, *including networks operating with limited resources within the meaning of Articles 53, 61 and 62 of Regulation (EU) (EU) No xxx/xxx [RD]*.

In that case, Member States shall ensure that priority is given to farmers whose access to an advisory service other than the farm advisory system is most limited.

The farm advisory system shall ensure that beneficiaries have access to advice reflecting the specific situation of their holding.

Article 15 Commission powers

The Commission may, by means of implementing acts, adopt rules for the uniform implementation of the farm advisory system *in order to render that system fully operational*. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

TITLE IV FINANCIAL MANAGEMENT OF THE FUNDS

Chapter IEAGF

SECTION 1 FINANCING OF EXPENDITURE

Article 16 Budget ceiling

1. The annual ceiling for EAGF expenditure shall be constituted by the maximum amounts set for it under Regulation (EU) No xxx/xxx [MFF].
2. In the event that the Union legislation provides for sums to be reduced from *or added to the amounts* referred to in paragraph 1, the Commission shall, by means of implementing acts *adopted without applying the procedure referred to in Article 112*, set the net balance available for EAGF expenditure on the basis of the data referred to in that legislation.

Article 17 Monthly payments

1. The appropriations necessary to finance the expenditure referred to in Article 4(1) shall be made available to Member States by the Commission in the form of monthly payments, on the basis of the expenditure effected by the accredited paying agencies during a reference period.

2. Until transfer of the monthly payments by the Commission, the resources required to undertake expenditure shall be mobilised by the Member States according to the needs of their accredited paying agencies.

Article 18

Procedure for monthly payments

1. Monthly payments shall be made by the Commission, without prejudice to the *application of* Articles 53 and 54, for expenditure effected by accredited paying agencies during the reference month.
2. Monthly payments shall be made to each Member State at the latest on the third working day of the second month following that in which the expenditure is effected. Expenditure effected by Member States between 1 and 15 October shall count as being made in the month of October. Expenditure effected between 16 and 31 October shall count as being made in the month of November.
3. The Commission shall, by means of implementing acts, determine the monthly payments which it makes, on the basis of a declaration of expenditure from the Member States and the information supplied in accordance with Article 102(1), taking account *of* reductions or suspensions applied under Article 43 or any other corrections. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 112(2).
4. The Commission may, by means of implementing acts *adopted without applying the procedure referred to in Article 112*, decide to make supplementary payments or deductions. In such cases, the *committee* referred to in Article 112(1) shall be informed at its next meeting.

Article 19

Administrative and personnel costs

Expenditure relating to administrative and personnel costs incurred by Member States and by beneficiaries of aid from the EAGF shall not be borne by the Fund.

Article 20

Public intervention expenditure

1. Where, within the framework of the common organisation of the markets, a sum per unit is not determined in respect of a public intervention, the EAGF shall finance the measure concerned on the basis of standard amounts uniform throughout the Union, in particular for funds originating in the Member States used for buying-in products, for material operations arising from storage and, where appropriate, for processing of intervention products.
2. In order to ensure the funding by the EAGF of the public intervention expenditure the Commission shall be empowered to adopt delegated *acts* in accordance with Article 111 concerning:
 - (a) the type of measures eligible for Union financing and the reimbursement conditions;
 - (b) the eligibility conditions and calculation methods on the basis of the information actually observed by the paying agencies or on the basis of flat-rates determined by

the Commission, or on the basis of flat-rate or non-flat-rate amounts provided for by the sectoral agricultural legislation.

3. *In order to ensure the proper management of the appropriations entered in the budget of the Union for the EAGF, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 containing rules pertaining to the valuation of operations in connection with public intervention and the measures to be taken in case of loss or deterioration of products under the public intervention and the determination of amounts to be financed.*
4. The amounts referred to in ■ paragraph 1 shall be set by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 112(2).

Article 21

Acquisition of satellite images

The list of the satellite images required for checks shall be agreed by the Commission and the Member States in accordance with the specification prepared by each Member State.

The Commission shall supply those satellite images free of charge to the control bodies or to suppliers of services authorised by those bodies to represent them.

The Commission shall remain the owner of the *satellite* images and shall recover them on completion of the work. It may also provide that work is carried out on enhancing techniques and working methods in connection with the inspection of agricultural areas by remote sensing.

Article 22

Monitoring of agricultural resources

The measures financed pursuant to point (c) of Article 6 shall aim to give the Commission the means to manage Union agricultural markets in a global context, to ensure agri-economic *and agri-environmental* monitoring of agricultural land, *including agro-forestry*, and of the condition of crops so as to enable estimates to be made, in particular as regards yields and agricultural production, to share the access to such estimates in an international context, such as initiatives coordinated by United Nations organisations or other international agencies, to contribute to transparency of world markets, and to ensure technological follow-up of the agri-meteorological system.

The measures financed pursuant to point (c) of Article 6 concern the collection or purchase of data needed to implement and monitor the *CAP*, including satellite data and meteorological data, the creation of a spatial data infrastructure and a website, the carrying out of specific studies on climatic conditions, *remote sensing used to assist in the monitoring of soil health* and the updating of agri-meteorological and econometric models. Where necessary, those measures shall be carried out in collaboration with national laboratories and bodies.

Article 23

Implementing powers

The Commission may, by means of implementing acts, adopt rules relating to the financing pursuant to points (b) and (c) of Article 6, the procedure under which the

measures referred to in Articles 21 and 22 shall be carried out in order to meet the objectives assigned, the framework governing the acquisition, enhancing and utilisation of satellite images and meteorological data, and the applicable deadlines. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

SECTION 2 BUDGET DISCIPLINE

Article 24 Compliance with the ceiling

1. Throughout the budget procedure and the implementation of the budget, appropriations relating to EAGF expenditure shall not exceed the amount referred to in Article 16.

All legislative instruments proposed by the Commission and adopted by the European Parliament and the Council, the Council or the Commission and having an influence on the EAGF budget shall comply with the amount referred to in Article 16.

2. Where Union legislation provides for a financial ceiling in euro for agricultural expenditure in respect of a Member State, such expenditure shall be reimbursed subject to that limit set in euro, with any necessary adjustments being made if Article 43 applies.
3. National ceilings for direct payments referred to in Article 7 of Regulation (EU) No xxx/xxx[DP], corrected by the adjustments laid down in Article 25 of this Regulation, shall be deemed to be financial ceilings in euro.

Article 24a *Reserve for crises in the agricultural sector*

A reserve for crises in the agricultural sector intended to provide additional support for the sector in case of major crises affecting the agricultural production or distribution shall be established by applying, at the beginning of each year, a reduction to direct payments with the financial discipline mechanism referred to in Article 25.

The total amount of the reserve shall be EUR 2 800 million with equal annual instalments of EUR 400 million (2011 prices) for the period 2014-2020 and shall be included under Heading 2 of the [MFF].

Article 25 Financial discipline

1. With a view to ensuring that the annual ceilings set out in the Regulation (EU) No xxx/xxx [MFF] for the financing of the market related expenditure and direct payments are respected, an adjustment rate of the direct payments shall be determined when the forecasts for the financing of the measures financed under that **sub-ceiling** for a given financial year indicate that the applicable annual ceilings will be exceeded.
2. The **Commission shall present** a proposal **to the European Parliament and the Council** no later than 31 March of the calendar year in respect of which the adjustment referred to in paragraph 1 applies **■** .
3. If by 30 June in any year the adjustment rate has not been set **by the European Parliament and the Council**, the Commission shall set it by means of an implementing

act and shall inform the **European Parliament and the** Council immediately. Such **an** implementing act shall be adopted in accordance with the advisory procedure referred to in Article 112(2).

4. Until 1 December, **■** the Commission **may**, on the basis of new information in its possession, **■** adapt the adjustment rate for direct payments set in accordance with paragraphs 2 or 3. **Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 112(2).**

4a. By way of derogation from the fourth subparagraph of Article 169(3) of Regulation (EU) No 966/2012, Member States shall reimburse the appropriations carried over in accordance with Article 169(3) of Regulation (EU) No 966/2012 to the final recipients who are subject, in the financial year to which the appropriations are carried over, to the adjustment of direct payments as referred to paragraph 1 of this Article.

The reimbursement referred to in the first subparagraph shall only apply for final beneficiaries in the Member States where financial discipline applies in the preceding financial year.

5. The Commission may, by means of implementing **acts**, adopt the terms and conditions applicable to appropriations carried over in accordance with Article **169**(3) of Regulation (EU) No **966/2012** in order to finance the expenditure referred to in Article 4(1)(b) of this Regulation. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 112(2).
6. **When** applying this Article, **■** the amount **■** for the **reserve** for crises in the agricultural sector referred to in **Article 24a** **shall be included in the determination of the adjustment rate of the direct payments. Any amount not made available for crisis measures by the end of the financial year shall be disbursed in accordance with paragraph 4a.**

Article 26

Budget discipline procedure

1. The Commission shall present to the European Parliament and to the Council, at the same time as the draft budget for financial year N, its forecasts for financial years N - 1, N and N + 1.
2. If, on drawing up the draft budget for financial year N, there appears to be a risk that the amount referred to in Article 16 for financial year N will be exceeded, the Commission shall propose to the European Parliament and the Council or to the Council the measures necessary to ensure compliance with that amount.
3. At any time, if the Commission considers that there is a risk of the amount referred to in Article 16 being exceeded and that it cannot take adequate measures to remedy the situation under its powers, it shall propose other measures to ensure compliance with that amount. **Those measures are adopted by the Council where the legal basis of the relevant measure is Article 43(3) TFEU or by the European Parliament and the Council where the legal basis of the relevant measure is Article 43(2) TFEU.**
4. If, at the end of financial year N, reimbursement requests from the Member States exceed or are likely to exceed the amount referred to in Article 16, the Commission shall:

- (a) consider the requests presented by Member States pro rata and within the limit of the available budget, and shall, by means of implementing acts, set provisionally the amount of the payments for the month concerned;
- (b) determine, for all Member States, at the latest by 28 February of the following year, their situation with regard to Union financing for the previous financial year;
- (c) set, by means of implementing act the total amount of Union financing broken down by Member State, on the basis of a single rate of Union financing, within the limit of the budget which was available for the monthly payments;
- (d) effect, at the latest when the monthly payments are made for March of year N+1, any compensations to be carried out with respect to Member States.

The implementing acts provided for in points (a) and (c) of the first subparagraph shall be adopted in accordance with the advisory procedure referred to in Article 112(2).

Article 27 Early-warning system

In order to ensure that the budget ceiling referred to in Article 16 will not be exceeded, the Commission shall implement a monthly early-warning and monitoring system in respect of EAGF expenditure.

At the beginning of each financial year, the Commission shall determine for that purpose monthly expenditure profiles based, where appropriate, on average monthly expenditure during the previous three years.

The Commission shall present periodically to the European Parliament and to the Council a report examining the development of expenditure effected in relation to the profiles and containing an assessment of the foreseeable implementation for the current financial year.

Article 28 Reference exchange rates

1. When adopting the draft budget, or a letter of amendment to the draft budget which concerns agricultural expenditure, the Commission shall use for EAGF budget estimates the average euro/US dollar exchange rate recorded on the market during the latest quarter ending at least 20 days before adoption of the budget document by the Commission.
2. When adopting a draft amending and supplementary budget or a letter of amendment thereto, in so far as those documents concern appropriations relating to the measures referred to in Article 4(1)(a), the Commission shall use:
 - (a) **■** the average euro/US dollar exchange rate actually recorded on the market from 1 August of the previous financial year until the end of the latest quarter ending at least 20 days before adoption of the budget document by the Commission and at the latest on 31 July of the current financial year, and
 - (b) **■** as a forecast for the remainder of the financial year, the average exchange rate actually recorded during the latest quarter ending at least 20 days before adoption of the budget document by the Commission.

Chapter II EAFRD

SECTION 1 GENERAL PROVISIONS FOR EAFRD

Article 29 No double funding

Expenditure financed under the EAFRD shall not be *the* subject of any other financing under the EU budget.

Article 30 Provisions applying to all payments

1. In accordance with Article 67(1) of Regulation (EU) No CR/xxx payments by the Commission of the EAFRD contribution as referred to in Article 5 shall not exceed the budget commitments.

They shall be assigned to the earliest open budget commitment ■

2. Article [81] of Regulation (EU) No FR/xxx shall apply.

SECTION 2 FINANCING OF RURAL DEVELOPMENT PROGRAMMES

Article 31 Financial contribution from the EAFRD

The financial contribution from the EAFRD towards expenditure under rural development programmes shall be determined for each programme, within the ceilings established by Union legislation concerning support for rural development by the EAFRD.

Article 32 Budget commitments

As regards the Union's budget commitments for rural development programmes, Article 66 of Regulation (EU) No CR/xxx shall apply.

SECTION 3 FINANCIAL CONTRIBUTION TO RURAL DEVELOPMENT PROGRAMMES

Article 33 Provisions applying to payments for rural development programmes

1. The appropriations necessary to finance the expenditure referred to in Article 5 shall be made available to Member States in the form of prefinancing, interim payments and the payment of a balance, as described in this Section.
2. The combined total of prefinancing and interim payments shall not exceed 95 % of the EAFRD's contribution to each rural development programme.

When the ceiling of 95 % is reached, the Member States shall continue transmitting request for payments to the Commission.

Article 34 Prefinancing arrangements

1. Following the Commission decision approving the **rural development** programme, an initial prefinancing amount for the whole programming period shall be paid by the Commission **to the Member State**. This initial pre-financing amount shall **be paid in instalments as follows**:
 - (a) **in 2014: 1 % of the amount of support from the EAFRD for the entire programming period to the programme and 1.5 % of the amount of support from the EAFRD for the entire programming period to the programme when a Member State has been receiving financial assistance since 2010, in accordance with articles 122, 143 of the TFEU, or from the EFSF, or is receiving financial assistance on 31 December 2013 in accordance with articles 136 and 143;**
 - (b) **in 2015: 1 % of the amount of support from the EAFRD for the entire programming period to the programme and 1,5 % of the amount of support from the EAFRD for the entire programming period to the programme when a Member State has been receiving financial assistance since 2010, in accordance with Articles 122 and 143 TFEU, or from the EFSF, or is receiving financial assistance on 31 December 2014 in accordance with Articles 136 and 143 TFEU;**
 - (c) **in 2016: 1 % of the amount of support from the EAFRD for the entire programming period to the programme.**

If a rural development programme is adopted in 2015 or later, the earlier instalments shall be paid in the year of adoption.
2. The total amount paid as prefinancing shall be reimbursed to the Commission if no expenditure is incurred and no declaration of expenditure for the rural development programme is sent within 24 months of the date on which the Commission pays the first instalment of the prefinancing amount.
3. Interest generated on the prefinancing shall be posted to the rural development programme concerned and deducted from the amount of public expenditure indicated on the final declaration of expenditure.
4. The total prefinancing amount shall be cleared in accordance with the procedure referred to in Article 53 **of this Regulation** before the rural development programme is closed.

Article 35 Interim payments

1. Interim payments shall be made for each rural development programme. They shall be calculated by applying the co-financing rate for each measure to the incurred public expenditure pertaining to it **as referred to in Article 65 of Regulation (EU) No RD/xxx**.
2. Subject to resource availability, the Commission shall make interim payments in order to reimburse the expenditure incurred by accredited paying agencies in implementing the programmes.
3. Each interim payment shall be made subject to compliance with the following requirements:
 - (a) transmission to the Commission of a declaration of expenditure signed by the accredited paying agency, in accordance with Article 102(1)(c);

- (b) no overrun of the total EAFRD contribution to each measure for the entire period covered by the programme concerned;
 - (c) transmission to the Commission of the last annual progress report on the implementation of the rural development programme.
4. If one of the requirements laid down in paragraph 3 is not met, the Commission shall forthwith inform the accredited paying agency or the coordinating body, where one has been appointed. If one of the requirements laid down in point (a) or (c) of paragraph 3 is not respected, the declaration of expenditure shall be inadmissible.
 5. The Commission shall make interim payments within 45 days of registering a declaration of expenditure for which the requirements set out in paragraph 3 of this Article are met, without prejudice to *the application of* Articles 53 and 54.
 6. Accredited paying agencies shall establish and forward, either directly or via the intermediary of the coordinating body, where one has been appointed, intermediate declarations of expenditure relating to rural development programmes to the Commission, within periods set by the Commission by means of implementing acts adopted in accordance with the examination procedure referred to in Article 112(3).

Declarations of expenditure shall cover expenditure that the paying agencies have incurred during each of the periods concerned. However, in cases where expenditure referred to in Article 55(7) of Regulation (EU) No CR/xxx cannot be declared to the Commission in the period concerned due to pending approval of the *programme* modification by the Commission, it may be declared in subsequent periods.

Intermediate declarations of expenditure in respect of expenditure incurred from 16 October onwards shall be booked to the following year's budget.

7. Article 74 of Regulation (EU) No CR/xxx shall apply.

Article 36

Payment of the balance and closure of the programme

1. After receiving the last annual progress report on the implementation of a rural development programme, the Commission shall pay the balance, subject to resource availability, on the basis of the financial plan in force, the annual accounts for the last execution year for the relevant rural development programme and of the corresponding clearance decision. Those accounts shall be presented to the Commission no later than 6 months after the final eligibility date of expenditure as referred to in Article 55(2) of Regulation (EU) No xxx/xxx[CR] and shall cover the expenditure incurred by the paying agency up to the last eligibility date of expenditure.
2. The balance shall be paid *no* later than six months after the information and documents referred to in paragraph 1 of this Article are considered receivable by the Commission and the last annual account have been cleared. The amounts still committed after the balance is paid shall be decommitted by the Commission within a period of six months, without prejudice to Article 37(5).
3. If by the time limit set out in paragraph 1 the Commission has not been sent the last annual progress report and the documents needed for clearance of the accounts of the last execution year for the programme the balance shall be automatically decommitted in accordance with Article 37.

Article 37
Automatic decommitment for rural development programmes

1. The Commission shall automatically decommit any portion of a budget commitment for a rural development programme that has not been used for the purpose of prefinancing or making interim payments or for which no declaration of expenditure fulfilling the requirements laid down in Article 35(3) has been presented to it in relation to expenditure incurred by 31 December of the *third* year following that of the budget commitment.
2. That part of budget commitments still open on the last eligibility date of expenditure as referred to in Article 55(2) of Regulation (EU) No xxx/xxx[CR] for which a declaration of expenditure has not been made within 6 months after that date shall be automatically decommitted.
3. In the event of any legal proceedings or an administrative appeal having suspensory effect, the period for automatic decommitment referred to in paragraph 1 or paragraph 2 shall be interrupted, in respect of the amount relating to the operations concerned, for the duration of those proceedings or that administrative appeal, provided that the Commission receives substantiated notification from the Member State by 31 December of year N + 3.
4. The following shall be disregarded in calculating the automatic decommitment:
 - (a) that part of the budget commitments for which a declaration of expenditure has been made but reimbursement of which has been reduced or suspended by the Commission at 31 December of year N + 3;
 - (b) that part of the budget commitments which a paying agency has been unable to disburse for reasons of force majeure seriously affecting implementation of the rural development programme. National authorities claiming force majeure must demonstrate the direct consequences on the implementation of all or part of the programme.

The Member State shall send the Commission information on the exceptions referred to in the first subparagraph by 31 January for the amount to be declared by the end of the preceding year.

5. The Commission shall inform Member States in good time if there is a risk of automatic decommitment. It shall inform them of the amount involved as indicated by the information in its possession. The Member States shall have two months from receiving this information to agree to the amount in question or present observations. The Commission shall carry out the automatic decommitment not later than nine months after the last time-limit resulting from the application of paragraphs 1 to 3.
6. In the event of automatic decommitment, the EAFRD contribution to the rural development programme concerned shall be reduced, for the year in question, by the amount automatically decommitted. The Member State shall produce a revised financing plan splitting the reduction of the aid between the measures for approval by the Commission. If it does not do so, the Commission shall reduce the amounts allocated to each measure pro rata.

Chapter III Common Provisions

Article 41 Agricultural financial year

Without prejudice to the special provisions on declarations of expenditure and revenue relating to public intervention laid down by the Commission pursuant to Article 48(7)(a), the agricultural financial year shall cover expenditure paid and revenue received and entered in the accounts of the EAGF and EAFRD budget by the paying agencies in respect of financial year "N" beginning on 16 October of year "N-1" and ending on 15 October of year "N".

Article 42 Compliance with payment deadlines

■ Where payment deadlines are laid down by Union legislation, any payment made by the paying agencies to the beneficiaries before the earliest possible date of payment and after the latest possible date of payment shall make the payments ineligible for Union financing, except in the cases, conditions and limits to be determined taking into account the principle of proportionality.

In order to make *expenditure effected before the earliest possible date of payment or after the latest possible date of payment eligible for Union financing, while limiting* the financial impact ■, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning *derogations from the ineligibility of payment made by the paying agencies*.

Article 43 Reduction and suspension of monthly and interim payments

1. Where the declarations of expenditure or the information referred to in Article 102 enable the Commission to establish that expenditure has been effected by bodies which are not accredited paying agencies, that payment periods or financial ceilings set by Union legislation have not been respected or that expenditure has otherwise not been effected in accordance with Union rules, the Commission may reduce or suspend the monthly or interim payments to the Member State concerned under the decision on monthly payments referred to in Article 18(3) or in the framework of the interim payments referred to in Article 35, after giving the Member State an opportunity to submit its comments.

Where the declarations of expenditure or the information referred to in Article 102 do not enable the Commission to establish that the expenditure has been effected in accordance with Union rules, the Commission shall ask the Member State concerned to supply further information and submit its comments within a period which may not be less than 30 days. If the Member State fails to respond to the Commission request within the period determined or if the response is considered unsatisfactory or demonstrates that the expenditure has not been effected in accordance with Union rules, the Commission may reduce or suspend the monthly or interim payments to the Member State concerned under the decision on monthly payments referred to in Article 18(3) or in the framework of the interim payments referred to in Article 35.

2. The Commission may, by way of implementing acts, reduce or suspend the monthly or interim payments to a Member State if **■** one or more of the key components of the national control system in question do not exist or are not effective due to the gravity or persistence of the deficiencies found, or ***there are similar serious deficiencies in the system for the recovery of irregular payments and if one of the following conditions is met:***

■

- (b) ***either*** the deficiencies referred to ***above*** are of a continuous nature and have been the reason for at least two implementing acts pursuant to Article 54, excluding from Union financing expenditure from the Member State concerned; ***or***
- (c) the Commission concludes that the Member State concerned is not in a position to implement the necessary ***remedial*** measures **■** in the immediate future, ***in accordance with an action plan with clear progress indicators, to be established in consultation with the Commission.***

The implementing acts provided for in the first subparagraph shall be adopted in accordance with the advisory procedure referred to in Article 112(2).

The reduction or suspension shall be applied to the relevant expenditure effected by the paying agency where the deficiencies exist for a period to be determined in the implementing acts referred to in the first subparagraph, which shall not exceed twelve months but which may be prolonged for further periods not exceeding twelve months if the conditions for the reduction or suspension continue to be met. It shall not be continued if those conditions are no longer met.

Before adopting the implementing acts referred to in the first subparagraph, the Commission shall inform the Member State concerned of its intention and shall ask it to react within a period which may not be less than 30 days.

The decisions on the monthly payments referred to in Article 18(3) or on the interim payments referred to in Article 35 shall take account of the implementing acts adopted under this paragraph.

3. Reductions and suspensions under this Article shall be applied in accordance with the principle of proportionality and are without prejudice to the ***application of*** Articles 53 and 54.
4. Reductions and suspensions under this Article shall be without prejudice to Articles 17, 20 and 21 of Regulation (EU) No CR/xxx.

The suspensions referred to in Articles 17 and 20 of Regulation (EU) No CR/xxx shall be applied following the procedure laid down in paragraph 2 of this Article.

Article 44

Suspension of payments in case of late submission

Where sectoral agricultural legislation requires Member States to submit, within a specific period of time, information on the ***number*** of checks carried out ***under Article 61*** and their outcome and ***where*** the Member States overrun that period, the Commission may suspend the monthly payments referred to in Article 18 or the interim payments referred to in Article 35 ***provided that the Commission has made available to the Member States in good time prior***

to the start of the reference period all the information, forms and explanations they need to compile the relevant statistics. The amount to be suspended shall not exceed 1,5 % of the expenditure for which the relevant statistical information has not been sent in time. In applying the suspension, the Commission shall act in accordance with the principle of proportionality, taking account of the extent of the delay. In particular, account shall be taken of whether the late submission of information places the annual budget discharge mechanism at risk. Before suspending the monthly payments the Commission shall notify, in writing, the Member State concerned. The Commission shall reimburse the suspended amounts when it receives the statistical information from the Member States concerned, provided that the date of receipts is not later than end of January of the following year.

Article 45
Assignment of revenue

1. The following shall be regarded as assigned revenue within the meaning of Article [18] of Regulation (EU) No FR/xxx:
 - (a) sums which, under Articles **42 and** Article 53 as regards expenditure under EAGF, **and Articles** 54 and 56, must be paid to the Union budget, including interest thereon;
 - (b) sums which are collected or recovered under **Section III of** Chapter III of Title I of Part II of **Council** Regulation (EC) No 1234/2007¹;
 - (c) sums which have been collected as a consequence of penalties in accordance with the specific rules laid down in sectoral agricultural legislation, save if that legislation explicitly provides that those amounts may be retained by the Member States;
 - (d) amounts corresponding to penalties applied in accordance with the rules on cross-compliance laid down in Chapter II of Title VI, as regards expenditure under EAGF;
 - (e) any security, deposit or guarantee furnished pursuant to Union legislation adopted within the framework of **■ CAP**, excluding rural development, which is forfeited. However, forfeited securities lodged when issuing export or import licences or under a tendering procedure for the sole purpose of ensuring the submission by tenderers of genuine tenders shall be retained by the Member States.
2. The sums referred to in paragraph 1 shall be paid to the Union budget and, in the event of reuse, shall be used exclusively to finance EAGF or EAFRD expenditure.
3. This Regulation shall apply *mutatis mutandis* to assigned revenue referred to in paragraph 1.
4. As regards the EAGF, Articles [150 and 151] of Regulation (EU) No FR/xxx shall apply *mutatis mutandis* to the keeping of accounts on assigned revenue referred to in this Regulation.

Article 46
Keeping of separate accounts

Each paying agency shall keep a set of separate accounts for the appropriations entered in the budget of the Union for the EAGF and the EAFRD.

¹ OJ L 299, 16.11.2007 , p. 1.

Article 47
Information measures

1. The provision of information financed pursuant to point (e) of Article 6 shall aim, in particular, at helping to explain, implement and develop the **CAP** and raising public awareness of the content and objectives of that policy, at reinstating consumer confidence following crises through information campaigns, at informing farmers and other parties active in rural areas and promoting the European model of agriculture and helping **citizens** understand it.

It shall supply coherent, objective and comprehensive information, both inside and outside the Union, in order to give an **accurate** overall picture of that policy.

2. The measures referred to in paragraph 1 may be:
 - (a) annual work programmes or other specific measures presented by third parties;
 - (b) activities implemented at the Commission's initiative.

The measures which are required by law or the measures already receiving financing under another Union action shall be excluded.

In order to implement activities as referred to in point (b) the Commission may be assisted by external experts.

The measures referred to in the first subparagraph shall also contribute to covering the corporate communication of the Union's political priorities provided that they are related to the general objectives of this Regulation.

3. The Commission shall publish, by 31 October of each year, a call of proposal respecting the conditions laid down in Regulation (EU) No FR/xxx.
4. The Committee referred to in Article 112(1) shall be notified of measures envisaged and taken pursuant to this Article.
5. The Commission shall present a report on the implementation of this Article to the European Parliament and the Council every two years.

Article 48
Commission powers

1. In order to take account of revenue collected by paying agencies for the Union's budget when making payments on the basis of the expenditure declarations submitted by Member States, the Commission shall be empowered to adopt delegated **acts** in accordance with Article 111 concerning the conditions under which certain types of expenditure and revenue under the EAGF and the EAFRD are to be compensated.

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3. In order to enable the equitable distribution of the appropriations available between the Member States, if the Union's budget has not been adopted by the beginning of the financial year or if the total amount of the commitments scheduled exceeds the threshold laid down in Article [150(3)] of Regulation (EU) No FR/xxx, the Commission shall be empowered to adopt delegated **acts** in accordance with Article 111 of this Regulation on

the provisions for the method applicable to the commitments and the payment of the amounts.

4. In order to verify the consistency of the data notified by the Member States in relation to the expenditure or other information provided for in this Regulation, [] the Commission shall be empowered to adopt delegated acts in accordance with Article 111 on the ***deferral of monthly payments by the Commission*** to Member States [] with regard to expenditure under the EAGF and the ***conditions governing the reduction or suspension by the Commission of interim payments to Member States under the EAFRD referred to in Article 43, in the case of non-compliance with the obligation to notify the Commission pursuant to Article 102.***
5. In order to ensure the respect of the proportionality principle when applying Article 44, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 pertaining to rules on:
 - (a) the list of measures which fall under Article 44;
 - (b) the rate [] of suspension of payments referred to in that Article []
6. The Commission may lay down, by means of implementing acts, further details on the obligation laid down in Article 46 as well as the specific conditions applying to the information to be booked in the accounts kept by the paying agencies. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).
7. The Commission may, by means of implementing acts, adopt rules pertaining to:
 - (a) rules on the financing and accounting of intervention measures in the form of public storage, and other expenditure financed by the EAGF and the EAFRD;
 - (b) the terms and conditions governing the implementation of the automatic decommitment procedure;
 - (c) ***procedure and other modalities for the proper functioning of the mechanism provided for in Article 44.***

Those implementing acts [] shall be adopted in accordance with the examination procedure referred to in Article 112(3).

Chapter IV Clearance of accounts

SECTION I GENERAL PROVISIONS

Article 49 On-the-spot checks by the Commission

1. Without prejudice to the checks carried out by Member States under national laws, regulations and administrative provisions or Article 287 of the Treaty or any check organised under Article 322 ***TFEU*** or based on Council Regulation (EC) No 2185/96¹, the

¹ OJ L 292, 15.11.1996, p. 2.

Commission may organise on-the-spot checks in Member States with a view to verifying in particular:

- (a) compliance of administrative practices with Union rules;
- (b) the existence of the requisite supporting documents and their correlation with the operations financed by the EAGF or the EAFRD;
- (c) the terms on which the operations financed by the EAGF or the EAFRD have been undertaken and checked.

(ca) whether a paying agency complies with the accreditation criteria laid down in Article 7(2) and whether the Member State correctly applies the provisions of Article 7(5).

Persons delegated by the Commission to carry out on-the-spot checks or Commission agents acting within the scope of the powers conferred upon them shall have access to the books and all other documents, including documents and metadata drawn up or received and recorded on an electronic medium, relating to expenditure financed by the EAGF or the EAFRD.

The powers to carry out on-the-spot checks shall not affect the application of national provisions which reserve certain acts for agents specifically designated by national legislation. Without prejudice to the specific provisions of Regulations (EC) No 1073/1999¹ and (EC) No 2185/96, persons delegated by the Commission shall not take part, inter alia, in home visits or the formal questioning of persons on the basis of legislation of the Member State concerned. However, they shall have access to information thus obtained.

2. The Commission shall give sufficient prior notice of an on-the-spot check to the Member State concerned or the Member State within whose territory the check is to take place, ***taking into account the administrative impact on paying agencies when organising checks***. Agents from the Member State concerned may take part in such checks.

At the request of the Commission and with the agreement of the Member State, additional checks or inquiries into the operations covered by this Regulation shall be undertaken by the competent bodies of that Member State. Commission agents or persons delegated by the Commission may take part in such checks.

In order to improve checks, the Commission may, with the agreement of the Member States concerned, request the assistance of the authorities of those Member States for certain checks or inquiries.

Article 50

Access to information

1. Member States shall make available to the Commission all information necessary for the smooth operation of the EAGF and the EAFRD and shall take all appropriate measures to facilitate the checks which the Commission deems appropriate in connection with the management of Union financing, including on-the-spot checks.
2. Member States shall communicate to the Commission on request the laws, regulations and administrative provisions which they have adopted for implementing the Union acts

¹ OJ L 136, 31.5.1999, p. 1.

relating to the **CAP**, where those acts have a financial impact on the EAGF or the EAFRD.

3. Member States shall make available to the Commission ■ information about irregularities and suspected fraud cases detected, and about the steps taken to recover undue payments in connection with those irregularities and frauds pursuant to Section III of this Chapter.

Article 51 Access to documents

The accredited paying agencies shall keep supporting documents relating to payments made and documents relating to the performance of the administrative and physical checks required by Union legislation, and shall make the documents and information available to the Commission. *Those supporting documents may be kept electronically under the conditions laid down by the Commission on the basis of Article 52(2).*

Where those documents are kept by an authority acting under delegation from a paying agency and responsible for authorising expenditure, that authority shall send reports to the accredited paying agency on the number of checks made, their content and the measures taken in the light of their results.

Article 52 *Commission* powers

1. *In order to ensure correct and efficient application of the provisions relating to on-the-spot checks and access to documents and information set out in this Chapter, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 supplementing the specific obligations to be complied with by the Member States under this Chapter.*
2. The Commission may, by means of implementing acts, lay down rules regarding:
 - (a) the *procedures relating to the* specific obligations which the Member States have to comply with in relation to the checks provided for in this Chapter;
 - (b) the *procedures relating to the* cooperation obligations to be complied with by the Member States for the implementation of Articles 49 and 50;
 - (c) the modalities for the reporting obligation referred to in Article 50(3);
 - (d) *the conditions under which the supporting documents referred to in Article 51 shall be kept, including their form and the time period of their storage.*

Those implementing acts ■ shall be adopted in accordance with the examination procedure referred to in Article 112(3).

SECTION II CLEARANCE

Article 53 Clearance of accounts

1. Prior to **31 May** of the year following the budget year in question and on the basis of the information transmitted in accordance with Article 102(1)(c), the Commission shall, by means of implementing acts, decide on the clearance of the accounts of the accredited

paying agencies. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 112(2).

2. The clearance decision referred to in paragraph 1 shall cover the completeness, accuracy and veracity of the annual accounts submitted. The decision shall be adopted without prejudice to decisions adopted subsequently pursuant to Article 54.

Article 54 Conformity clearance

1. The Commission shall, by means of implementing acts, decide on the amounts to be excluded from Union financing when it finds that expenditure as indicated in Article 4(1) and Article 5 has not been incurred in conformity with Union legislation and, for EAFRD, with the applicable Union and national law referred to in Article 77 of Regulation (EU) No CR/xxx. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 112(2).
2. The Commission shall assess the amounts to be excluded on the basis of the gravity of the non-conformity recorded. It shall take due account of the nature ■ of the infringement and of the financial damage caused to the Union. ***It shall base the exclusion on the identification of amounts unduly spent and, where these cannot be identified with proportionate effort, may apply extrapolated or flat-rate corrections. Flat-rate corrections shall only be applied where, due to the nature of the case or because the Member State has not provided the Commission with the necessary information, it is not possible with proportionate effort to identify more precisely the financial damage caused to the Union.***
3. Before the adoption of any decision to refuse financing, the findings from the Commission's inspection and the Member State's replies shall be notified in writing, following which the two parties shall attempt to reach agreement on the action to be taken. ***At this point in the procedure the Member States shall be given the opportunity to demonstrate that the actual extent of the non-compliance is less than the Commission's assessment.***

If agreement is not reached, the Member State may request opening of a procedure aimed at reconciling, ***within a period of four months***, each party's position ■ . A report of the outcome of the procedure shall be given to the Commission, which shall ***take into account the report's recommendations*** before deciding on any refusal of financing. ***The Commission shall give reasons if it decides not to follow the recommendations in the report.***

4. Financing may not be refused for:
 - (a) expenditure as indicated in Article 4(1) which is incurred more than 24 months before the Commission notifies the Member State in writing of its inspection findings;
 - (b) expenditure on multiannual measures falling within the scope of Article 4(1) or within the scope of the programmes as indicated in Article 5, where the final obligation on the recipient occurs more than 24 months before the Commission notifies the Member State in writing of its inspection findings;
 - (c) expenditure on measures in programmes, as indicated in Article 5, other than those referred to in point (b) of this paragraph, for which the payment or, as the case may be,

the final payment, by the paying agency, is made more than 24 months before the Commission notifies the Member State in writing of its inspection findings.

5. Paragraph 4 shall not apply in the case of:

- (a) irregularities covered by Section III of this Chapter;
- (b) national aids ■ for which the procedure laid down in Article 108 (2) *TFEU has been initiated by the Commission or infringements which the Commission has notified to the Member State concerned by a letter of formal notice in accordance with Article 258 TFEU*;
- (c) infringements by Member States of their obligations under Chapter III of Title V of this Regulation, provided that the Commission notifies the Member State in writing of its inspection findings within 12 months following receipt of the Member State's report on the results of its checks of the expenditure concerned.

Article 55 *Commission* powers

1. The Commission shall, by means of implementing acts, lay down rules for the implementation of:

- (a) the clearance of accounts provided for in Article 53 with regard to the measures to be taken in connection with the adoption of the decision and its implementation, including the information exchange between the Commission and the Member States and the deadlines to be respected;
- (b) the conformity clearance provided for in Article 54 with regard to the measures to be taken in connection with the adoption of the decision and its implementation, including the information exchange between the Commission and the Member States and the deadlines to be respected as well as the conciliation procedure provided for in that Article, including the establishment, tasks, composition and working arrangements of the conciliation body.

Those implementing acts ■ shall be adopted in accordance with the examination procedure referred to in Article 112(3).

2. *In order to enable the Commission to protect the financial interest of the Union and to ensure an efficient application of the provisions relating to the conformity clearance provided for in Article 54, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning the criteria and methodology for applying corrections.*

SECTION III IRREGULARITIES

Article 56 Common Provisions

1. For any undue payment following the occurrence of irregularity or negligence, Member States shall request recovery from the beneficiary within **18 months after the approval and, where applicable, reception, by the paying agency or body responsible for the recovery, of a control report or similar document, stating that an irregularity** has taken

place. *The* corresponding amounts *shall be recorded at the time of the recovery request* in the debtors' ledger of the paying agency.

2. If recovery has not taken place within four years of the date of the recovery request, or within eight years where recovery is taken in the national courts, **50 % of the financial consequences of non-recovery shall be borne by the Member State concerned and 50 % by the Union budget**, without prejudice to the requirement that the Member State concerned must pursue recovery procedures in compliance with Article 60.

Where, in the context of the recovery procedure, the absence of any irregularity is recorded by an administrative or legal instrument of a definitive nature, the Member State concerned shall declare as expenditure to the EAGF and EAFRD the financial burden borne by it under the first subparagraph.

However, if for reasons not attributable to the Member State concerned, it is not possible for recovery to take place within the time limit specified in the first subparagraph, and the amount to be recovered exceeds EUR 1 million, the Commission may, at the request of the Member State, extend the time limit by a period of up to half of the original period.

3. On duly justified grounds, Member States may decide not to pursue recovery. A decision to this effect may be taken only in the following cases:
 - (a) if the costs already and likely to be incurred total more than the amount to be recovered, *this condition shall be deemed to have been met*
 - (i) *if the amount to be recovered from the beneficiary in the context of an individual payment for an aid scheme, not including interest, does not exceed 100 EUR or*
 - (ii) *if the amount to be recovered from the beneficiary in the context of an individual payment for an aid scheme, not including interest, falls between 100 EUR and 150 EUR and the Member State concerned applies a threshold equal or higher than the amount to be recovered under its national law for not pursuing national debts;*
 - (b) if recovery proves impossible owing to the insolvency, recorded and recognised under national law, of the debtor or the persons legally responsible for the irregularity.

Where the decision referred to in the first subparagraph of this paragraph is taken before the outstanding amount has been subject to the rules referred to in paragraph 2, the financial consequence of non-recovery is borne by the ***budget of the Union*** ■

4. Member States shall enter in the annual accounts to be sent to the Commission under Article 102(1)(c)(iv) the amounts to be borne by them under paragraph 2 of this Article. The Commission shall check that this has been done and make any adjustments needed as part of the implementing act specified in Article 53(1).
5. The Commission may, by means of implementing acts, decide to exclude from Union financing sums charged to the Union budget in the following cases:
 - (a) if the Member State has not respected the time limits referred to in paragraph 1;
 - (b) if it considers that the decision not to pursue recovery taken by a Member State pursuant to paragraph 3 is not justified;

- (c) if it considers that the irregularity or lack of recovery is the outcome of irregularity or negligence attributable to the administrative authorities or another official body of the Member State.

Those implementing acts ■ shall be adopted in accordance with the advisory procedure referred to in Article 112(2). Before the adoption of such implementing acts, the procedure laid down in Article 54(3) shall apply.

Article 57 Provisions specific to the EAGF

Sums recovered following the occurrence of irregularity or negligence and the interest thereon shall be made over to the paying agency and booked by it as revenue assigned to the EAGF in the month in which the money is actually received.

When the Union budget is credited as referred in the first paragraph, the Member State may retain **20** % of the corresponding amounts as flat rate recovery costs, except in cases of irregularity or negligence attributable to its administrative authorities or other official bodies.

Article 58 Provisions specific to the EAFRD

Member States shall make financial adjustments where irregularities or negligence are detected in rural development operations or programmes by totally or partially cancelling the Union financing concerned. Member States shall take into consideration the nature and gravity of the irregularities detected and the level of the financial loss to the EAFRD.

Amounts of the Union financing under the EAFRD which are cancelled and amounts recovered, as well as the interest thereon, shall be reallocated to the programme concerned. However, the cancelled or recovered Union funds may be reused by Member States only for an operation under the same rural development programme and provided the funds are not reallocated to operations which have been the subject of a financial adjustment. After the closure of a rural development programme, the Member State shall refund the sums recovered to the Union budget.

Article 59 **Commission** powers

1. In order to ensure correct and efficient application of the provisions relating to ***the conditions for the recovery of undue payments and interest thereon***, the Commission shall be empowered to adopt delegated ***acts*** in accordance with Article 111 concerning specific obligations to be complied with by the Member States.
2. ***The Commission shall, by means of implementing acts, lay down rules on:***
 - (a) ***the procedures for the recovery of undue payments and interest as set out in this Section and for keeping the Commission apprised of pending recoveries;***
 - (b) ***the forms of notification and communication to be made by the Member States to the Commission in relation to the obligations set out in this Section.***

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

TITLE V

CONTROL SYSTEMS AND PENALTIES

Chapter I

General rules

Article 60

Protection of the financial interests of the Union

1. Member States shall, within the framework of the **CAP**, adopt all legislative, regulatory and administrative provisions and take any other measures necessary to ensure effective protection of the financial interests of the Union and particularly to:
 - (a) check the legality and regularity of operations financed by the EAGF and the EAFRD;
 - (b) **ensure** effective prevention against fraud, especially as regards the areas with a higher level of risk, and which shall act as a deterrent, having regard to the costs and benefits as well as the proportionality of the measures;
 - (c) prevent, detect and correct irregularities and fraud;
 - (d) impose penalties which are effective, dissuasive and proportionate in accordance with Union legislation, or failing this, national law, and bring legal proceedings to that effect, as necessary;
 - (e) recover undue payments plus interest, and bring legal proceedings to that effect as necessary.
2. Member States shall set up efficient management and control systems in order to ensure compliance with the legislation governing Union support schemes ***aiming to minimise the risk of financial damage to the Union.***
3. Member States shall inform the Commission of the provisions adopted and measures taken under paragraphs 1 and 2.

Any conditions which the Member States establish to supplement the conditions laid down by Union rules for receiving support financed by the EAGF or the EAFRD shall be verifiable.
4. The Commission may, by means of implementing acts, adopt ***the necessary*** rules aiming at reaching a uniform application of ***this Article. Those rules may relate to the following:***
 - (a) ***the procedures, deadlines, exchange of information in relation to the obligations set out in paragraphs 1 and 2;***
 - (b) ***the notification and communication to be made by the Member States to the Commission in relation to the obligation set out in paragraph 3.***

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

Article 61

General principles of checks

1. The system set up by the Member States in accordance with Article 60(2) shall include, except where otherwise provided, systematic administrative checking of all aid applications and ***payment claims and*** shall be supplemented by on-the-spot checks.
2. As regards the on-the-spot checks, the authority responsible shall draw its check sample from the entire population of applicants comprising, where appropriate, a random part ***in order to obtain a representative error rate and a risk-based part, which shall target the areas where the risk of errors is the highest.***
3. The authority responsible shall draw up a report on each on-the-spot check.
4. Where appropriate, all on-the-spot checks provided for in Union rules regarding agricultural subsidies and rural development support shall be carried out at the same time.
5. ***Member States shall ensure a minimum level of on-the-spot checks needed for an effective management of the risks and shall increase that level, when necessary, or may reduce it where the management and control systems function properly and the error rates remain at an acceptable level.***
6. ***In cases to be provided for by the Commission on the basis of point (h) of Article 64(2), aid applications and payment claims or any other communications, claims or requests may be corrected and adjusted after their submission in cases of obvious errors recognised by the competent authority.***
7. ***An aid application or payment claim shall be rejected if the beneficiary or his representative prevents an on-the-spot check from being carried out, except in cases of force majeure and exceptional circumstances.***

Article 62

Circumvention clause

Without prejudice to specific provisions, no advantage provided for under the sectoral agricultural legislation shall be granted in favour of a natural or legal person in respect of whom it is established that the conditions required for obtaining such advantages were created artificially, contrary to the objectives of that legislation.

Article 63

Compatibility of support schemes for the purposes of checks ***in the wine sector***

For the purposes of applying the support schemes in the wine sector as referred to in Regulation (EU) No xxx/xxx[sCMO], Member States shall ensure that the administration and control procedures applied to those schemes are compatible with the integrated system referred to in Chapter II of this Title as regards the following elements:

- (a) the computerised database;
- (b) the identification systems for agricultural parcels;
- (c) the administrative checks.

The procedures shall allow a common functioning or the exchange of data with the integrated system.

Article 64

Commission powers as regards checks

1. In order to ensure ***that the*** application of the checks ***is correct and efficient*** and that the verification of the eligibility conditions is carried out in an efficient, coherent and non-discriminatory way which protects the financial interest of the Union, the Commission shall be empowered to adopt delegated acts in accordance with Article 111, ***concerning, where the proper management of the system so requires, additional requirements with respect to customs procedures, in particular as laid down in Regulation (EC) No 450/2008¹.***
2. The Commission shall, by means of implementing acts, adopt the necessary rules aiming at reaching a uniform application of this Chapter in the Union. Those rules may ■ relate to the following:
 - (a) the rules concerning administrative and on-the-spot checks to be conducted by the Member States with regard to the respect of obligations, commitments and eligibility criteria resulting from the application of Union legislation;
 - (b) the rules on the minimum level of on-the-spot checks ***and on the obligation*** to increase ***it or the possibility to reduce it as set out in Article 61(5)***;
 - (c) the rules and methods on the reporting of the checks and verification carried out and their results;
 - (d) the authorities responsible for performing the checks for compliance as well as to the content, the frequency and the marketing stage to which those checks shall apply;
 - (e) ■ with regard to hemp as referred to in Article 38 of Regulation (EU) No xxx/xxx [DP], rules on the specific control measures and methods for determining tetrahydrocannabinol levels ;
 - (f) with regard to cotton as referred to in Article 42 of Regulation (EU) No xxx/xxx [DP], a system for checks on the approved interbranch organisations ;
 - (g) with regard to wine as referred to in Regulation (EU) No sCMO/xxx, rules on the measurement of areas, as well as relating to checks and rules governing the specific financial procedures for the improvement of checks ;
 - (h) ***the cases where aid applications and payments claims or any other communications, claims or requests may be corrected and adjusted after their submission, in accordance with Article 61(6) ;***
 - (i) the tests and methods to be applied for establishing the eligibility of products for public intervention and private storage, as well as the use of tendering procedures, both for public intervention and for private storage.

Those implementing acts ■ shall be adopted in accordance with the examination procedure referred to in Article 112(3) ■ .

Article 65

Undue payments and administrative penalties

¹ ***Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code) (OJ L 145, 4.6.2008, p. 1).***

1. Where it is found that a beneficiary does not comply with the eligibility criteria, **■** commitments *or other obligations* relating to the conditions for *the* granting of the aid *or support*, as provided for in the sectoral agricultural legislation, the aid *shall not be paid or* shall be withdrawn in full or in part *and, where relevant, the corresponding payment entitlements as referred to in Article 18 of Regulation (EU) No xxx/xxx[DP] shall not be allocated or shall be withdrawn.*
2. *Moreover*, where *sectoral agricultural legislation* so provides, Member States shall also impose *administrative* penalties, *in accordance with the rules laid down in Article 66 and Article 77a. This shall be without prejudice to the provisions set out in Title VI (Articles 91 to 101).*
■
3. The amounts, *including interest thereon, and payment entitlements*, concerned by the withdrawal referred to in paragraph 1 and by the penalties referred to in paragraph 2 shall be recovered *without prejudice to Article 56(3).*
4. *The Commission shall adopt delegated acts in accordance with Article 111 concerning the conditions for the partial or total withdrawal referred to in paragraph 1.*
5. *The Commission shall, by means of implementing acts, lay down detailed procedural and technical rules on:*
 - (a) *the application and calculation of the partial or total withdrawal referred to in paragraph 1;*
 - (b) *the recovery of undue payments and penalties as well as in respect of unduly allocated payment entitlements and the application of interest.*

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

Article 66 *Application of administrative penalties*

1. *As regards the administrative penalties referred to in Article 65(2), this Article shall apply in case of non-compliance in relation to eligibility criteria, commitments or other obligations resulting from the application of sectoral agricultural legislation, with the exception of those referred to in Chapter II of this Title (Articles 68 to 78) and Title VI (Articles 91 to 101) and of those subject to the penalties provided for in Article 89(3) and 89(3a).*
2. *No administrative penalties shall be imposed:*
 - (a) *where the non-compliance is due to force majeure ;*
 - (b) *where the non-compliance is due to obvious errors as referred to in Article 61(6) ;*
 - (c) *where the non-compliance is due to an error of the competent authority or another authority, and if the error could not have reasonably been detected by the person concerned by the administrative penalty;*
 - (d) *where the person concerned can demonstrate to the satisfaction of the competent authority that he or she is not at fault for the non-compliance with the obligations*

referred to in paragraph 1 or if the competent authority is otherwise satisfied that the person concerned is not at fault;

- (e) where the non-compliance is of a minor nature, including in the form of a threshold, to be set by the Commission in accordance with paragraph 7 point (b); in setting such a threshold, the Commission shall ensure that it does not exceed a quantitative threshold expressed as a nominal value or a percentage of the eligible amount of aid or support, which, however, shall not be less than 1 %; as regards rural development support, that threshold shall not be less than 3 %;*
 - (f) other cases where the imposition of a penalty is not appropriate, to be defined by the Commission in accordance with paragraph 6 point (b).*
- 3. Administrative penalties may be applied to the beneficiary of the aid or support and to other natural or legal persons, including groups or associations thereof, bound by the obligations laid down in the rules referred to in paragraph 1.**
- 4. The administrative penalties may take one of the following forms:**
- (a) reduction in the amount of aid or support to be paid in relation to the aid application or payment claim affected by the non-compliance or further applications; as regards rural development support, this shall be without prejudice to the possibility of suspending the aid or support where the non-compliance can be expected to be addressed by the beneficiary within a reasonable time;*
 - (b) payment of an amount calculated on the basis of the quantity and/or the time concerned by non-compliance;*
 - (c) suspension or withdrawal of an approval, recognition or authorisation;*
 - (d) exclusion from the right to participate in or benefit from the aid scheme or support measure or other measure concerned;*
- 5. The administrative penalties shall be proportionate and graduated according to the severity, extent, duration and reoccurrence of the non-compliance found, and shall respect the following limits:**
- (a) the amount of the administrative penalty as referred to in paragraph 4 point (a) shall not exceed 200 % of the amount of the aid application or payment claim;*
 - (b) notwithstanding point (a), as regards rural development, the amount of the administrative penalty, as referred to in paragraph 4 point (a), shall not exceed 100 % of the eligible amount;*
 - (c) the amount of the administrative penalty, as referred to in paragraph 4 point (b), shall not exceed an amount comparable to the percentage referred to in point (a) of this paragraph;*
 - (d) the suspension, withdrawal or exclusion referred to in paragraph 4 points (c) and (d) may be set at a maximum of three consecutive years which may be renewable in case of a new non-compliance.*
- 6. In order to take into account the deterrent effect of charges and penalties to be imposed on the one hand, and the specificity of each aid scheme or support measure covered by the sectoral agricultural legislation on the other hand, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning :**

- (a) *for each aid scheme or support measure and person concerned as referred to in paragraph 3 the identification of the administrative penalty from the list set out in paragraph 4 and within the limits laid down in paragraph 5 and of the specific rate, including in cases of non-quantifiable non-compliance, to be imposed by Member States;*
 - (b) *cases where the administrative penalties shall not be imposed, as referred to in paragraph 2 point (f).*
7. *The Commission shall adopt, by means of implementing acts, detailed procedural and technical rules in order to harmonise the implementation of this Article on:*
- (a) *the application and calculation of the administrative penalties;*
 - (b) *the detailed rules for identifying a non-compliance as minor, as referred to in paragraph 2 point (e);*
 - (c) *the rules identifying the cases where, due to the nature of the penalties, Member States may retain the penalties recovered.*

Those implementing acts ■ *shall be adopted in accordance with the examination procedure referred to in Article 112(3) ■.*

Article 66a

Suspension of payments to the Member States in specific cases covered by Regulation (EU) No xxx/xxx [sCMO]

1. *Where Regulation (EU) No xxx/xxx [sCMO] requires Member States to submit, within a specific period of time, specific information and the Member States fail to send or to send on time, or send incorrect information, the Commission may suspend the monthly payments referred to in Article 18 provided that the Commission has made available to the Member States in good time the information, forms and explanations needed. The amount to be suspended shall relate to the expenditure for the market measures for which the required information was not sent or was not sent in time or is incorrect.*
2. *In order to ensure the respect of the proportionality principle when applying paragraph 1, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning the market measures falling under the suspension and the rate and period of suspension of payments referred to in paragraph 1.*
3. *The Commission shall lay down, by means of implementing acts, detailed rules on the procedure and other modalities for the proper functioning of the suspension of monthly payments referred to in the paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).*

Article 67

Securities

1. *The Member States shall, when the sectoral agricultural legislation so provides, request the lodging of a security giving the assurance that a sum of money will be paid or forfeited to a competent authority if a particular obligation under sectoral agricultural legislation is not fulfilled.*

2. Except in cases of *force majeure*, the security shall be forfeited in whole or in part where the execution of a particular obligation is not carried out, or is carried out only partially.
3. **The** Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning rules *which ensure a non discriminatory treatment, equity and the respect of proportionality when lodging a security on:*

■

- (a) the responsible party in the event that an obligation is not met;
 - (b) specific situations when the competent authority may waive the requirement of a security;
 - (c) the conditions applying to the security to be lodged and the guarantor *and the conditions for lodging and releasing the security;*
 - (d) specific conditions related to the security lodged in the framework of advance payments.
 - (e) *the consequences of breaching the obligations for which a security has been lodged, as provided for in paragraph 1, including forfeiting of securities, the rate of reduction to be applied on release of securities for refunds, licences, offers, tenders or specific applications and when an obligation covered by that security has partially or totally not been met, taking into account the nature of the obligation, the quantity for which the obligation has been breached, the period exceeding the time limit by which the obligation should have been met and the time by which evidence that the obligation has been met is produced.*
4. The Commission may adopt, by means of implementing acts, rules on:
 - (a) the form of the security to be lodged and the procedure for lodging the security, for accepting it, and for replacing the original security;
 - (b) the procedures for the release of a security;
 - (c) the notifications to be made by Member States and by the Commission.

Those implementing acts ■ shall be adopted in accordance with the examination procedure referred to in Article 112(3) ■ .

Chapter II

Integrated Administration and Control System

Article 68

Scope *and terms used*

1. Each Member State shall set up and operate an integrated administration and control system (■ the 'integrated system').
2. The integrated system shall apply to the support schemes listed in Annex I of Regulation (EU) No xxx/xxx [DP] and to the support granted in accordance with Articles 22(1)(a) and (b), 29 to 32, 34, 35 *and 40a* of Regulation xxx/xxx [RD] and where applicable Article *31(b) and (c) of Regulation* (EU) CR/xxx.

This Chapter shall not, ***however***, apply to measures referred to in Article 29(9) of Regulation (EU) No xxx/xxx[RD], ***nor*** to measures under Article 22(1)(a) and (b) of that Regulation as far as the establishment cost is concerned.

3. To the extent necessary, the integrated system shall also apply to the control of cross-compliance as laid down in Title VI.
4. For the purpose of this Chapter:
 - (a) ***"agricultural parcel" means a continuous area of land, declared by one farmer, which does not cover more than one single crop group; however, where a separate declaration of the use of an area within a crop group is required in the context of Regulation (EU) xxx/xxx[DP], that specific use shall if necessary further limit the agricultural parcel; Member States may lay down additional criteria for further delimitation of an agricultural parcel;***
 - (b) ***"area-related direct payment" means the basic payment scheme, the single area payment scheme and the redistributive payment as referred to in Chapter 1 of Title III of Regulation (EU) xxx/xxx[DP], the payment for agricultural practices beneficial for the climate and the environment as referred to in Chapter 2 of Title III of Regulation (EU) xxx/xxx[DP], the payment for areas with natural constraints as referred to in Chapter 3 of Title III of Regulation (EU) xxx/xxx[DP], the payment for young farmers as referred to in Chapter 4 of Title III of Regulation (EU) xxx/xxx[DP], the voluntary coupled support as referred to in Chapter 1 of Title IV, where the support is paid per hectare, the crop specific payment for cotton as referred to in Chapter 2 of Title IV, the small farmers scheme as referred to in Title V of Regulation (EU) xxx/xxx[DP], specific measures for agriculture in the outermost regions of the Union as referred to in Title III of Regulation (EC) No 247/2006, where support is paid per hectare, and specific measures for agriculture in favour of the smaller Aegean islands as referred to in Chapter III of Regulation (EC) No 1405/2006, where the support is paid per hectare.***

Article 69

Elements of the integrated system

1. The integrated system shall comprise the following elements:
 - (a) a computerised database;
 - (b) an identification system for agricultural parcels;
 - (c) a system for the identification and registration of payment entitlements;
 - (d) aid applications ***and payment claims***;
 - (e) an integrated control system;
 - (f) a single system to record the identity of each beneficiary of the support referred to in Article 68(2) who submits an aid application or a payment claim.

2. Where applicable, the integrated system shall incorporate a system for the identification and registration of animals set up in accordance with **Regulation** (EC) No 1760/2000 of the European Parliament and of the Council¹ and Council Regulation (EC) No 21/2004².
3. Without prejudice to the responsibilities of the Member States for the implementation and application of the integrated system, the Commission may seek the assistance of specialised bodies or persons in order to facilitate the establishment, monitoring and utilisation of the integrated system, in particular with a view to providing the competent authorities of the Member States with technical advice, should they request it.
4. ***Member States shall take all further measures required for the proper application of the integrated system and shall give one another the mutual assistance needed for the purposes of the controls required under this Regulation.***

Article 70
Computerised database

1. The computerised database shall record, for each beneficiary of the support referred to in Article 68(2), the data obtained from aid applications and payment claims.

*That database shall in particular allow consultation through the competent authority of the Member State, of the data relating to the **current calendar and/or marketing years and the previous ten years**. However, where support level of farmers is affected by the data relating to the calendar and/or marketing years, starting from 2000, the database shall also allow consultation of those data.* It shall also allow direct and immediate consultation of the data relating to at least the previous **four consecutive calendar years and, for data related to "permanent pasture" as defined in Article 2 point (c) of Commission Regulation (EC) No 1120/2009³ in its original version and, for periods as from its date of application, "permanent grassland and permanent pasture" as defined in Article 4(h) of DPR, at least the previous five consecutive calendar years.**

By derogation from the second subparagraph, the Member States which acceded to the Union in 2004, or later, shall only be required to ensure consultation of the data as from the year of their accession.

2. Member States may set up decentralised databases on condition that these, and the administrative procedures for recording and accessing data, are designed homogeneously throughout the territory of the Member State and are compatible with one another in order to allow for cross-checks.

¹ **Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 (OJ L 204, 11.8.2000, p. 1).**

² **Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC (OJ L 5, 9.1.2004, p. 8).**

³ **Commission Regulation (EC) No 1120/2009 of 29 October 2009 laying down detailed rules for the implementation of the single payment scheme provided for in Title III of Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers (OJ L 316, 2.12.2009, p. 1).**

Article 71
Identification system for agricultural parcels

1. The identification system for agricultural parcels shall be established on the basis of maps **■**, land registry documents or other cartographic references. Use shall be made of computerised geographical information system techniques, including aerial or spatial orthoimagery, with a homogenous standard guaranteeing accuracy at least equivalent to cartography at a scale of 1: 10 000 and, **as from 2016, at a scale of 1:5000, while taking into account the outline and condition of the parcel. This shall be fixed in accordance with existing Union standards.**

However, Member States may make use of such techniques including aerial or spatial orthoimagery, with a homogenous standard guaranteeing accuracy at least equivalent to cartography at a scale of 1:10 000 acquired on the basis of long-term contracts that have been agreed before November 2012.

2. ***Member States shall ensure that the identification system for agricultural parcels contains a reference layer to accommodate ecological focus areas, including in particular the relevant specific commitments and/or environmental certification schemes referred to in Article 29(1b) of Regulation (EU) No xxx/xxx [DP] equivalent to the practices in Article 32 of that same Regulation before the application forms referred to in Article 73 for payments for agricultural practices beneficial for the climate and the environment referred to in Articles 29 to 32 of Regulation (EU) No xxx/xxx [DP] are provided for claim year 2018 at the latest.***

Article 72
System for the identification and registration of payment entitlements

1. The system for the identification and registration of payment entitlements shall allow for verification of the entitlements and for cross-checks with the aid applications and the identification system for agricultural parcels.
2. The system referred to in paragraph 1 shall allow direct and immediate consultation, through the competent authority of the Member State, of the data relating to at least the previous four consecutive calendar years.

Article 73
Aid applications and payment claims

1. Each year, a beneficiary of the support referred to in Article 68(2) shall submit an application for direct payments or a payment claim respectively for the relevant area and animal-related rural development measures indicating, where applicable:
 - (a) all the agricultural parcels on the holding, as well as the non-agricultural area for which support referred to in Article 68(2) is claimed;
 - (b) the payment entitlements declared for activation;
 - (c) any other information provided for in this Regulation or required with a view to the implementation of the relevant sectoral agricultural legislation or by the Member State concerned.

As regards the area-related **direct** payment, each Member State shall determine the minimum size of agricultural parcels in respect of which an application may be made. However, the minimum size may not exceed 0,3 ha.

- 1a.** By way of derogation from point (a) of *paragraph 1*, Member States may decide that ***agricultural parcels of an area of up to 0,1 ha on which an application for payment is not made, do not need to be declared, provided the sum of such parcels does not exceed 1 ha, and/or that*** a farmer who does not apply for any area-based direct payment does not have to declare his agricultural parcels in the case where the total area does not exceed ***1 ha***. ***In all cases, the*** farmer shall however indicate in his application that he has agricultural parcels at his disposal and shall, at the request of the competent authorities, indicate their location.
- 2.** Member States shall provide, inter alia **through** electronic means, pre-established forms based on the areas determined in the previous year as well as graphic material indicating the location of those areas.

A Member State may decide that the aid application **and the payment claim**:

- (a) are valid if the beneficiary confirms the absence of changes with respect to the aid application and the payment claim submitted the previous year,**
- (b) need to contain only changes with respect to the aid application and the payment claim submitted for the previous year.**

However, **with regard to** the small farmers scheme as provided for in Title V of Regulation (EU) No DP/xxx, this possibility shall be given to all farmers concerned.

- 3.** A Member State may decide that a single application shall cover several or all support schemes and measures referred to in Article 68 or other support schemes and measures.
- 4.** ***By derogation from Regulation (EEC, Euratom) No 1182/71 of the Council¹, the calculation of the date for the submission or amendment of an aid application, payment claim or any supporting documents, contracts or declarations under this Chapter shall be adapted to the specific requirements of the integrated system. The Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning rules applicable to periods, dates and time limits where the final date for submission of applications or amendments is a public holiday, Saturday or Sunday.***

Article 74

System for the identification of beneficiaries

The single system **for the purpose of recording** the identity of each beneficiary of **the** support **as** referred to in Article 68(2) shall guarantee that all aid applications and payment claims submitted by the same beneficiary can be identified as such.

Article 75

Verification of eligibility conditions and reductions

- 1.** In accordance with Article 61, Member States, through the paying agencies or the bodies delegated by them, shall carry out administrative checks on the aid application to verify

¹ ***Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).***

the eligibility conditions for the aid. Those checks shall be supplemented by on-the-spot checks.

2. For the purpose of on-the-spot checks Member States shall draw up a sampling plan of agricultural holdings and/or beneficiaries.
3. Member States may use remote sensing and Global Navigation Satellite System (GNSS) techniques as a means of carrying out on-the-spot checks on agricultural parcels.
4. In case of non-compliance with the eligibility conditions Article 65 shall apply.

Article 76

Payment to beneficiaries

1. The payments under the support schemes and measures referred to in Article 68(2) shall be made within the period from 1 December to 30 June of the following calendar year.

Payments shall be made in up to two instalments within that period.

■ Member States may, *however*, pay advances *of* up to 50 % as regards direct payments and *up to* 75 % for the support granted under rural development as referred to in Article 68(2) prior to 1 December and not before 16 October.

With regard to support granted under rural development, as referred to in Article 68(2), this paragraph shall apply in respect of the aid applications or payment claims submitted as of claim year 2018, except as regards the payment of advances of up to 75 % provided for in the third subparagraph.

2. Payments referred to in the paragraph 1 shall not be made before the verification of eligibility conditions, to be carried out by the Member States pursuant to Article 75, has been finalised.

By way of derogation from the first subparagraph, advances for support granted under rural development as referred to in Article 68(2) may be paid after the administrative checks pursuant to Article 61(1) have been finalised.

- 2a. *The Commission shall adopt implementing acts which are both necessary and justifiable in an emergency, in order to resolve specific problems in relation to the application of this Article. Such implementing acts may derogate from paragraphs 1 and 2, but only to the extent that, and for such a period, as is strictly necessary.*

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

Article 77

Delegated powers

1. In order to ensure that the integrated system provided for in this Chapter is implemented in an efficient, coherent and non-discriminatory way which protects the financial interests of the Union, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning:
 - (a) specific definitions needed to ensure a harmonised implementation of the integrated system, *in addition to those provided for in Regulation (EU) No xxx/xxx[DP] and Regulation (EU) No xxx/xxx[RD];*

- (b) *with regard to Articles 68 to 76, rules on further measures necessary to ensure the compliance with control requirements laid down in this regulation or in sectoral agricultural legislation to be taken by the Member States against producers, services, bodies, organisations or other operators, such as slaughterhouses or associations involved in the procedure for the granting of the aid, where this Regulation does not provide for relevant administrative penalties; such measures shall as far as possible, mutatis mutandis, follow the provisions on penalties set out in Article 77a paragraphs (1) to (5).*
2. In order to ensure a correct distribution of the funds resulting from the aid applications provided for in Article 73 to the entitled beneficiaries and to allow for verification of the fulfilment by them of the obligations related thereto, the Commission shall ***be empowered to adopt*** delegated acts in accordance with Article 111 ***concerning:***
- (a) *the basic features, technical rules, including, for the update of reference parcels, appropriate tolerance margins taking into account the outline and condition of the parcel, and including rules on the inclusion of landscape features located adjacent to a parcel, and quality requirements for the identification system for agricultural parcels provided for in Article 71 and for the identification of the beneficiaries as provided for in Article 74;*
- (b) *the basic features, technical rules and quality requirements for the system for the identification and registration of payment entitlements provided for in Article 72;*
- (c) *the rules to establish the definition of the basis for calculation of aid, including rules on how to deal with certain cases where eligible areas contain landscape features or trees; such rules shall allow Member States for areas under permanent grassland to consider scattered landscape features and trees, the total area of which does not exceed a certain percentage of the reference parcel, as being automatically part of the eligible area without a requirement to map them for this purpose.*

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Article 77a *Application of administrative penalties*

1. *As regards the administrative penalties referred to in Article 65(2), this Article shall apply in case of non-compliance in relation to eligibility criteria, commitments or other obligations resulting from the application of the rules on support referred to in Article 68(2).*
2. *No administrative penalty shall be imposed:*
- (a) *where the non-compliance is due to force majeure;*
- (b) *where the non-compliance is due to obvious errors as referred to in Article 61(6);*
- (c) *where the non-compliance is due to an error of the competent authority or another authority, and if the error could not have reasonably been detected by the person concerned by the administrative penalty;*
- (d) *where the person concerned can demonstrate to the satisfaction of the competent authority that he or she is not at fault for the non-compliance with the obligations*

referred to in paragraph 1 or if the competent authority is otherwise satisfied that the person concerned is not at fault;

- (e) where the non-compliance is of a minor nature, including in the form of a threshold, to be defined by the Commission in accordance with paragraph 7 point (b); in setting such thresholds, the Commission shall ensure that they do not exceed a quantitative threshold expressed as a nominal value and/or a percentage of the determined area or the eligible amount of aid or support, which shall not be less than 0,5 %;*
 - (f) other cases where the imposition of a penalty is not appropriate, to be defined by the Commission in accordance with paragraph 6 point (b).*
- 3. Administrative penalties may be imposed on the beneficiary of the aid or support, including groups or associations thereof, bound by the obligations laid down in the rules referred to in paragraph 1.*
- 4. The administrative penalties may take the following forms:*
- (a) reduction in the amount of aid or support paid or to be paid in relation to the aid applications or payment claims affected by the non-compliance and/or in relation to aid applications or payment claims for previous or subsequent years;*
 - (b) payment of an amount calculated on the basis of the quantity and/or the time concerned by non-compliance;*
 - (c) exclusion from the right to participate in the aid scheme or support measure concerned.*
- 5. The administrative penalties shall be proportionate and graduated according to the severity, extent, duration and reoccurrence of the non-compliance found and shall respect the following limits:*
- (a) the amount of the administrative penalty for a given year, as referred to in paragraph 4 point (a), shall not exceed 100% of the amounts of the aid applications or payment claims;*
 - (b) the amount of the administrative penalty for a given year, as referred to in paragraph 4 point (b), shall not exceed 100% of the amount of the aid applications or payment claims to which the penalty is applied;*
 - (c) the exclusion referred to in paragraph 4 point (c) may be set at a maximum of three consecutive years, which may apply again in the case of any new non-compliance.*
- 5a. Notwithstanding paragraphs (4) and (5), as regards the payment referred to in Chapter 2 of Title III of Regulation (EU) No xxx/xxx [DP], administrative penalties shall take the form of a reduction in the amount of payments made or to be made under that Regulation.*

The administrative penalties referred to in this paragraph shall be proportionate and graduated according to the severity, extent, duration and reoccurrence of the non-compliance concerned.

The amount of such administrative penalties for a given year shall not exceed 0 % for the first two years of application of Chapter 2 of Title III of [DP] Regulation (claim years 2015 and 2016), 20 % for the third year of application (claim year 2017) and 25 %

starting with the fourth year of application (claim year 2018), of the amount of the payment referred to in Chapter 2 of Title III of Regulation (EU) No xxx/xxx[DP] to which the farmer concerned would be entitled if he or she met the conditions for that payment.

6. *In order to take into account the deterrent effect of penalties to be imposed on the one hand, and the specificity of each aid scheme or support measure referred to in Article 68(2) on the other hand, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning:*
 - (a) *for each aid scheme or support measure and person concerned as referred to in paragraph 3 the identification of the administrative penalty from the list set out in paragraph 4 and within the limits laid down in paragraph 5 and 5a and of the specific rate, including in cases of non-quantifiable non-compliance, to be imposed by Member States;*
 - (b) *cases where the administrative penalties shall not be imposed, as referred to in paragraph 2 point (f).*
7. *The Commission shall adopt, by means of implementing acts, detailed procedural and technical rules in order to harmonise the implementation of this Article on:*
 - (a) *the application and calculation of such administrative penalties;*
 - (b) *the detailed rules for identifying a non-compliance as minor, as referred to in paragraph 2 point (e).*

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

Article 78 Implementing powers

The Commission shall, by means of implementing acts, lay down the following:

- (a) the basic features, ***technical rules*** and quality requirements for the computerised database provided for in Article 70;
- I**
- (b) rules on the aid application and payments claims provided for in Article 73, and the application for payment entitlements, including the final date for submission of applications, the requirements as to the minimum amount of information to be included in the application, provisions for amendments to or the withdrawal of aid applications, exemption from the requirement to submit an aid application and provisions which allow Member States to apply simplified procedures or to correct obvious errors;
- (c) rules on the carrying out of checks in order to verify compliance with obligations, and the correctness and completeness of the information provided in the aid application or payment claim, ***including rules on measurement tolerances for on-the-spot checks***;
- (d) technical ***specifications*** needed for the purpose of the uniform implementation of this Chapter;
- (e) rules on situations of transfer of holdings accompanied by the transfer of any obligation concerning eligibility in respect of the aid in question which still needs to be fulfilled;

(f) rules on the payment of the advances referred to in Article 76.

Those implementing acts ■ shall be adopted in accordance with the examination procedure referred to in Article 112(3) ■ .

Chapter III Scrutiny of transactions

Article 79 Scope and definitions

1. This Chapter ***lays down*** specific rules on the scrutiny of the commercial documents of those entities receiving or making payments relating directly or indirectly to the system of financing by the EAGF, or their representatives ■ ('undertakings') in order to ascertain whether transactions forming part of the system of financing by the EAGF have actually been carried out and have been executed correctly.
2. This Chapter shall not apply to measures covered by the integrated system referred to in Chapter II of this Title. ***In order to respond to changes in the agricultural legislation and to ensure the efficiency of the system of ex-post controls established by this Chapter, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 establishing a list of measures which, due to their design and control requirements, are unsuited for additional ex-post controls by way of scrutiny of commercial documents and, therefore, shall not be subject to such scrutiny under this Chapter.***
3. For the purposes of this Chapter the following definitions shall apply:
 - (a) "commercial ***document***" means all books, registers, vouchers and supporting documents, accounts, production and quality records, and correspondence relating to the undertaking's business activity, as well as commercial data, in whatever form they may take, including electronically stored data, in so far as these documents or data relate directly or indirectly to the transactions referred to in paragraph 1;
 - (b) "third party" means any natural or legal person directly or indirectly connected with transactions carried out within the financing system by the EAGF.

Article 80 Scrutiny by Member States

1. Member States shall carry out systematic scrutiny of the commercial documents of undertakings taking account of the nature of the transactions to be scrutinised. Member States shall ensure that the selection of undertakings for scrutiny gives the best possible assurance of the effectiveness of the measures for preventing and detecting irregularities. The selection shall take account *inter alia* of the financial importance of the undertakings in that system and other risk factors.
2. In appropriate cases, the scrutiny provided for in paragraph 1 shall be extended to natural and legal persons with whom undertakings are associated and to such other natural or legal persons as may be relevant for the pursuit of the objectives set out in Article 81.
3. The scrutiny carried out pursuant to this Chapter shall not prejudice the checks undertaken pursuant to Articles 49 and 50.

Article 81

Objectives of the scrutiny

1. The accuracy of primary data under scrutiny shall be verified by a number of cross-checks, including, where necessary, the commercial documents of third parties, appropriate to the degree of risk presented, including:
 - (a) comparisons with the commercial documents of suppliers, customers, carriers and other third parties;
 - (b) physical checks, where appropriate, upon the quantity and nature of stocks;
 - (c) comparison with the records of financial flows leading to or consequent upon the transactions carried out within the financing system by the EAGF; and
 - (d) checks, in relation to bookkeeping, or records of financial movements showing, at the time of the scrutiny, that the documents held by the paying agency as justification for the payment of aid to the beneficiary are accurate.
2. In particular, where undertakings are required to keep particular book records of stock in accordance with Union or national provisions, scrutiny of those records shall, in appropriate cases, include a comparison with the commercial documents and, where appropriate, with the actual quantities in stock.
3. In the selection of transactions to be checked, full account shall be taken of the degree of risk presented.

Article 82

Access to commercial documents

1. The persons responsible for the undertaking, or a third party, shall ensure that all commercial documents and additional information are supplied to the officials responsible for the scrutiny or to the persons empowered for that purpose. Electronically stored data shall be provided on an appropriate data support medium.
2. The officials responsible for the scrutiny or the persons empowered for that purpose may require that extracts or copies of the documents referred to in paragraph 1 be supplied to them.
3. Where, during scrutiny carried out pursuant to this Chapter, the commercial documents maintained by the undertaking are considered inadequate for scrutiny purposes, the undertaking shall be directed to maintain in future such records as are required by the Member State responsible for the scrutiny, without prejudice to obligations laid down in other Regulations relating to the sector concerned.

Member States shall determine the date as of which such records are to be established.

Where all, or part, of the commercial documents required to be scrutinised pursuant to this Chapter are located with an undertaking in the same commercial group, partnership or association of undertakings managed on a unified basis as the undertaking scrutinised, whether located inside or outside *the territory of the Union*, the undertaking shall make those commercial documents available to officials responsible for the scrutiny, at a place and time to be determined by the Member States responsible for carrying out the scrutiny.

4. Member States shall ensure that officials responsible for scrutiny are entitled to seize commercial documents, or have them seized. This right shall be exercised with due regard to the relevant national provisions and shall not affect the application of rules governing proceedings in criminal matters concerning the seizure of documents.

Article 83
Mutual assistance

1. Member States shall assist each other for the purposes of carrying out the scrutiny provided for in this Chapter in the following cases:
 - (a) where an undertaking or third party is established in a Member State other than that in which payment of the amount in question has or should have been made or received;
 - (b) where an undertaking or third party is established in a Member State other than that in which the documents and information required for scrutiny are to be found.

The Commission may coordinate joint actions involving mutual assistance between two or more Member States.

2. During the first three months following the EAGF financial year of payment, Member States shall send the Commission a list of undertakings established in a third country for which payment of the amount in question has or should have been made or received in that Member State.
3. If additional information is required in another Member State as part of the scrutiny of an undertaking in accordance with Article 80, and in particular cross-checks in accordance with Article 81, specific scrutiny requests may be made indicating the reasons for the request. An overview of such specific requests shall be sent to the Commission on a quarterly basis within one month after the end of each quarter. The Commission may demand that a copy of individual requests be provided.

The scrutiny request shall be met not later than six months after its receipt; the results of the scrutiny shall be communicated without delay to the requesting Member State and to the Commission. The communication to the Commission shall be on a quarterly basis within one month after the end of each quarter.

Article 84
Programming

1. Member States shall draw up programmes for scrutinies to be carried out pursuant to Article 80 during the subsequent scrutiny period.
2. Each year, before 15 April, the Member States shall send the Commission their programme as referred to in paragraph 1 and shall specify:
 - (a) the number of undertakings to be scrutinised and their breakdown by sector on the basis of the amounts relating to them;
 - (b) the criteria adopted for drawing up the programme.
3. The programmes established by the Member States and forwarded to the Commission shall be implemented by the Member States, if, within eight weeks, the Commission has not made known its comments.

4. Paragraph 3 shall apply *mutatis mutandis* to the amendments to the programme made by the Member States.
5. At any stage, the Commission may request the inclusion of a particular category of undertaking in the programme of a Member States.
6. Undertakings for which the sum of the receipts or payments amounted to less than EUR 40000 shall be scrutinised in accordance with this Chapter only for specific reasons to be indicated by the Member States in their annual programme referred to in paragraph 1 or by the Commission in any proposed amendment to that programme. ***In order to take into account economic developments, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 modifying the threshold of EUR 40000.***

Article 85 Special departments

1. In each Member State a special department shall be responsible for monitoring the application of this Chapter. Those departments shall, in particular, be responsible for:
 - (a) the performance of the scrutiny provided for in this Chapter by officials employed directly by that special department; or
 - (b) the coordination and general surveillance of the scrutiny carried out by officials belonging to other departments.

Member States may also provide that scrutiny to be carried out pursuant to this Chapter is allocated between the special departments and other national departments, provided that the former is responsible for their coordination.

2. The department or departments responsible for the application of this Chapter shall be organised in such a way as to be independent of the departments or branches of departments responsible for the payments and the scrutiny carried out prior to payment.
3. In order to ensure that this Chapter is properly applied, the special department referred to in paragraph 1 shall take all the measures necessary, and it shall be entrusted by the Member State concerned with all the powers necessary, to perform the tasks referred to in this Chapter.
4. Member States shall adopt appropriate measures to penalise natural or legal persons who fail to fulfil their obligations under this Chapter.

Article 86 Reports

1. Before 1 January, following the scrutiny period, Member States shall send the Commission a detailed report on the application of this Chapter.
2. The Member States and the Commission shall have regular exchanges of views on the application of this Chapter.

Article 87 Access to information and *scrutinies* by the Commission

1. In accordance with the relevant national laws, Commission officials shall have access to all documents prepared either with a view to or following the scrutiny organised under this Chapter and to the data held, including those stored in the data-processing systems. *That* data shall be provided upon request on an appropriate data support medium.
2. The scrutinies referred to in Article 80 shall be carried out by the officials of the Member States. Officials of the Commission may participate in those scrutinies. They may not themselves exercise the powers of scrutiny accorded to national officials. However, they shall have access to the same premises and to the same documents as the officials of the Member States.
3. In the case of scrutinies taking place under Article 83, officials of the requesting Member State may be present, with the agreement of the requested Member State, at the scrutiny in the requested Member State and have access to the same premises and the same documents as the officials of that Member State.

Officials of the requesting Member State present at scrutinies in the requested Member State shall at all time be able to furnish proof of their official capacity. The scrutinies shall at all times be carried out by officials of the requested Member State.

4. Without prejudice to the provisions of Regulations (EC) No 1073/99 and (EC) No 2185/96, where national provisions concerning criminal procedure reserve certain acts for officials specifically designated by the national law, neither the officials of the Commission, nor the officials of the Member State referred to in paragraph 3, shall take part in these acts. In any event, they shall not take part in, in particular, visits to the home or the formal interrogation of persons in the context of the criminal law of the Member State. They shall, however have access to information thus obtained.

Article 88 Commission powers

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The Commission shall, where necessary, by means of implementing acts adopt the provisions aiming at reaching a uniform application of this *Chapter* in the Union, in particular relating to the following:

- (a) the performance of the scrutiny referred to in Article 80 as regards the selection of undertakings, rate and calendar of scrutiny;
- (b) conservation of commercial documents and the types of documents to maintain or data to record;
- (c) the performance and coordination of joint actions referred to in Article 83(1);
- (d) details and specifications regarding the content, form and way of submission of requests, the content, form and way of notification, submission and exchange of information required in the framework of this Chapter;
- (e) conditions and means of publication or specific rules and conditions for the diffusion or making available by the Commission to the competent authorities of the Member States of the information needed in the framework of this Regulation;
- (f) responsibilities of the special department referred to in Article 85;

(g) the content of reports referred to in Article 86.

Those implementing acts **■** shall be adopted in accordance with the examination procedure referred to in Article 112(3).

Chapter IV

Other provisions on checks *and penalties*

Article 89

Other checks *and penalties* related to *marketing rules*

1. Member States shall take measures to ensure that the products referred to in **Article 96(1) of Regulation (EU) xxx/xxx [sCMO]** which are not labelled in conformity with the provisions of that Regulation are not placed on, or *are* withdrawn from, the market.
2. Without prejudice to any specific provisions which may be adopted by the Commission, imports into the Union of the products specified in paragraph 1(a) and (b) of Article 129 of Regulation (EU) No xxx/xxx [sCMO] shall be subject to checks to determine whether the conditions provided for in paragraph 1 of that Article are met.
3. Member States shall carry out checks, based on a risk analysis, in order to verify whether products referred to in Annex I to Regulation (EU) xxx/xxx [sCMO] conform to the rules laid down in Section I of Chapter I of Title II of Part II of Regulation (EU) No xxx/xxx[sCMO] and shall apply administrative penalties as appropriate.
- 3a. Without prejudice to acts regarding the wine sector adopted on the basis of Article 66, in the event of infringement of Union rules in the wine sector, Member States shall apply proportionate, effective and dissuasive administrative penalties. Such penalties shall not apply in the cases set out in Article 66(2)(a) to (d) and where the non-compliance is of a minor nature.**
4. In order to protect Union funds and the identity, provenance and quality of Union wine, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 pertaining to:
 - (a) the establishment of an analytical databank of isotopic data that will help detect fraud to be constructed on the basis of samples collected by Member States; **■**
 - (b) rules on control bodies and the mutual assistance between them;
 - (c) rules on the common use of Member States' findings;**■**
5. **The Commission may, by means of implementing acts, adopt all measures necessary for:**
 - (a) the procedures relating to Member States' own databanks and to the analytical databank of isotopic data that will help detect fraud;**
 - (b) the procedures relating to cooperation and assistance between control authorities and bodies;**
 - (c) as regards the obligation referred to in paragraph 3, rules for performing the checks for compliance with marketing standards, rules on the authorities responsible for**

performing the checks, as well as on the content, the frequency and the marketing stage to which those checks shall apply.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

Article 90

Checks related to designation of origin and geographical indications *and protected traditional terms*

1. Member States shall take the necessary steps to stop unlawful use of protected designations of origin, protected geographical indication *and protected traditional terms* referred to in Regulation (EU) No xxx/xxx[sCMO].
2. Member State shall designate the competent authority responsible for checks in respect of the obligations laid down in Section II of Chapter I of Title II of Part 2 of Regulation (EU) No xxx/xxx[sCMO] in accordance with the criteria laid down in Article 4 of Regulation (EC) No 882/2004 of the European parliament and of the Council¹ and shall ensure that any operator complying with those obligations is entitled to be covered by a system of checks.
3. Within the Union, annual verification of compliance with the product specification, during the production and during or after conditioning of the wine shall be ensured by the competent authority referred to in paragraph 2 or by one or more control bodies within the meaning of point 5 of the second subparagraph of Article 2 of Regulation (EC) No 882/2004 operating as a product certification body in accordance with the criteria laid down in Article 5 of that Regulation.
4. The Commission shall, by means of implementing acts, adopt the following:
 - (a) the communications to be made by the Member States to the Commission;
 - (b) rules on the authority responsible for the verification of compliance with the product specification, including where the geographical area is in a third country;
 - (c) the actions to be implemented by the Member States to prevent the unlawful use of protected designations of origin, protected geographical indications *and protected traditional terms*;
 - (d) *the* checks and verification to be carried out by the Member States, including testing.

Those implementing acts ■ shall be adopted in accordance with the examination procedure referred to in Article 112(3) ■ .

TITLE VI CROSS COMPLIANCE

¹ OJ L 165, 30.4.2004, p.1.

Chapter I Scope

Article 91 General principle

1. When a beneficiary referred to in Article 92 does not comply **■** with the rules on cross-compliance as laid down in Article 93, ***an administrative*** penalty shall be ***imposed on*** that beneficiary.
2. The ***administrative*** penalty referred to in paragraph 1 shall **■** only ***apply where*** the non-compliance is the result of an act or omission directly attributable to the beneficiary concerned; ***and where one, or both, of the following additional conditions are met:***

-
- (a) the non-compliance is related to the agricultural activity of the beneficiary; **■**
 - (b) the area of the holding of the beneficiary is concerned.

With regard to forest areas, ***however***, this penalty shall not apply in so far as no support is claimed for the ***area*** concerned **■** in accordance with Articles 22(1)(a), 31 and 35 of Regulation (EU) No xxx/xxx[RD].

3. For the purpose of this Title:
 - (a) 'holding' means all the production units and areas managed by the beneficiary referred to in Article 92 situated within the territory of the same Member State;
 - (b) ***"requirement" means each individual statutory management requirement under Union legislation referred to in Annex II within a given act, differing in substance from any other requirements of the same act.***

Article 92 Beneficiaries concerned

Article 91 shall apply to beneficiaries receiving direct payments under Regulation (EU) No xxx/xxx[DP], payments under Articles 44 and 45 of Regulation (EU) No xxx/xxx[sCMO] and the annual premia under Articles 22(1)(a) and (b), 29 to 32, 34 and 35 of Regulation (EU) No xxx/xxx[RD].

However, Article 91 shall not apply to beneficiaries participating in the small farmers scheme ***as*** referred to in Title V of Regulation (EU) No xxx/xxx[DP]. ***The penalty provided for in that Article shall also not apply to the support as referred to in Article 29(9) of Regulation (EU) No RD/xxx.***

Article 93 Rules on cross -compliance

1. The rules on cross -compliance shall be the statutory management requirements under Union legislation and the standards for good agricultural and environmental condition of land established at national level as listed in Annex II, relating to the following areas:
 - (a) environment, climate change and good agricultural condition of land;
 - (b) public, animal and plant health;

(c) animal welfare.

2. The acts referred to in Annex II in relation to the statutory management requirements shall apply as in force and, in case of Directives, as implemented by the Member States.

3. In addition, as regards the years **2015** and **2016**, the rules on cross compliance shall also comprise the maintenance of permanent *pasture*. The Member States which were *Members* of the Union *on* 1 January 2004 shall ensure that land which was under permanent *pasture* at the date provided for the area aid applications for 2003 is maintained under permanent *pasture* within defined limits. The Member States which became Member of the Union in 2004 shall ensure that land which was under permanent *pasture* on 1 May 2004 is maintained under permanent *pasture* within defined limits. Bulgaria and Romania shall ensure that land which was under permanent *pasture* on 1 January 2007 is maintained under permanent *pasture* within defined limits. ***Croatia shall ensure that land which was under permanent pasture on 1 July 2013 is maintained under permanent pasture within defined limits.***

The preceding subparagraph shall not apply to land under permanent *pasture* to be afforested, if such afforestation is compatible with the environment and with the exclusion of plantations of Christmas trees and fast growing species cultivated in the short term.

4. In order to take account of the elements in *paragraph 3*, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 containing the rules on maintenance of permanent *pasture*, in particular to ensure that measures are taken to maintain the land under permanent *pasture* at the level of farmers, including individual obligations to be respected such as obligation to reconvert areas into permanent *pasture* where it is established that the ratio of land under permanent *pasture* is decreasing.

In order to ensure a correct application of the obligations of the Member States on the one hand and individual farmers on the other hand, as regards the maintenance of permanent pasture, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 to establish the conditions and methods for the determination of the ratio of permanent pasture and agricultural land that has to be maintained.

For the purpose of paragraphs 3 and 4, "permanent pasture" means permanent pasture as defined in Article 2 point (c) of Regulation (EC) No 1120/2009 in its original version.

Article 94

Obligations of Member States relating to good agricultural and environmental condition

Member States shall ensure that all agricultural area, including land which is no longer used for production purposes, is maintained in good agricultural and environmental condition. Member States shall define, at national or regional level, minimum standards for beneficiaries for good agricultural and environmental condition of land on the basis of Annex II, taking into account the specific characteristics of the areas concerned, including soil and climatic condition, existing farming systems, land use, crop rotation, farming practices, and farm structures. Member States shall not define minimum requirements which are not established in Annex II.

Article 95
Information to beneficiaries

Member States shall provide the beneficiaries concerned, where appropriate by the use of electronic means, with the list of, and ***clear and precise*** information on, ***the requirements and standards to be applied at farm level***.

Chapter II
Control system and ***administrative*** penalties in relation to cross -
compliance

Article 96
Checks of cross-compliance

1. Member States shall make use, where appropriate, of the integrated system laid down in Chapter II of Title V and in particular of elements referred to in Article 69(1) points (a), (b), (d), (e) and (f).

Member States may make use of their existing administration and control systems to ensure compliance with the rules on cross compliance.

Those systems, and notably the system for the identification and registration of animals set up in accordance with Council Directive 2008/71/EC of 15 July 2008 on the identification and registration of pigs¹ and Regulations (EC) No 1760/2000 and (EC) No 21/2004, shall be compatible with the integrated system referred to in Chapter II of Title V of this Regulation.

2. Depending on the requirements, standards, acts or areas of cross -compliance in question, Member States may decide to carry out administrative checks, in particular those already provided for under the control systems applicable to the respective requirement, standard, act or area of cross compliance.
3. Member States shall carry out on-the-spot checks to verify whether a beneficiary complies with the obligations laid down in this Title.
4. The Commission shall, by means of implementing acts, adopt rules on the carrying out of checks in order to verify compliance with the obligations referred to ***under*** this Title, ***including rules allowing that risk analysis takes account of the following factors:***
 - (a) ***farmers' participation in the farm advisory system as provided for in Title III of this Regulation;***
 - (b) ***farmers' participation in a certification system, if it covers the requirements and standards concerned.***

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

Article 97
Application of the ***administrative*** penalty

¹ OJ L 213, 8.8.2008, p. 31.

1. The **administrative** penalty provided for in Article 91 shall be applied when the rules on cross-compliance are not complied with at any time in a given calendar year ([] 'the calendar year concerned'), and the non-compliance in question is **directly** attributable to the beneficiary who submitted the aid application or the payment claim in the calendar year concerned.

The first subparagraph shall apply *mutatis mutandis* to beneficiaries which are found not to have complied with the rules on cross-compliance, at any time during three years from 1 January of the year following the calendar year in which the first payment was granted under the support programmes for restructuring and conversion or at any time during one year from 1 January of the year following the calendar year in which the payment was granted under the support programmes for green harvesting referred to in Regulation (EU) No [sCMO] ([] 'the years concerned [] ').

2. In **cases** where the land is transferred during the calendar year concerned or the years concerned, paragraph 1 shall also apply where the non-compliance in question is the result of an act or omission directly attributable to the person to whom or from whom the agricultural land was transferred. By way of derogation, where the person to whom the act or omission is directly attributable has submitted an aid application or a payment claim in the calendar year concerned or the years concerned, the **administrative** penalty shall be applied on the basis of the total amounts of the payments referred to in Article 92 granted or to be granted to that person.

For the purpose of this paragraph, 'transfer' **means** any type of transaction whereby the agricultural land ceases to be at the disposal of the transferor.

3. Notwithstanding paragraph 1, Member States may decide not to apply **an administrative** penalty per beneficiary and per calendar year when the amount of the penalty is EUR 100 or less subject to the rules to be adopted pursuant to Article 101.

Where a Member State decides to make use of the option provided for in the first subparagraph, the competent authority shall, for a sample of beneficiaries, take in the following year the actions necessary to verify that the beneficiary has remedied the findings of non-compliance concerned. The finding and the obligation to take remedial action shall be notified to the beneficiary.

4. The **administrative** penalty does not affect the legality and regularity of the payments on which the reduction or exclusion applies.

Article 98

Application of the **administrative** penalty in Bulgaria, **Croatia** and Romania

For Bulgaria and Romania, the **administrative** penalties referred to in Article 91 shall be applied at the latest from 1 January 2016 as regards the statutory management requirements in the area of animal welfare referred to in Annex II.

For Croatia, the penalties referred to in Article 91 shall be applied in accordance with the following time schedule as regards the statutory management requirements (SMR) referred to in Annex II:

- (a) ***from 1 January 2014 for SMR 1 to SMR 3 and SMR 6 to SMR 8;***
- (b) ***from 1 January 2016 for SMR 4, SMR 5, SMR 9 and SMR 10;***

(c) *from 1 January 2018 for SMR 11 to SMR 13.*

Article 99

Calculation of the *administrative* penalty

1. The *administrative* penalty provided for in Article 91 shall be applied by means of reduction or exclusion of the total amount of the payments listed in Article 92 granted or to be granted to that beneficiary *in respect of aid applications he has submitted or will submit in the course of* the calendar year *of the finding*.

For the calculation of those reductions and exclusions, account shall be taken of the severity, extent, permanence and reoccurrence of the non-compliance found as well as of the criteria set out in paragraphs 2, 3 and 4

2. In the case of non compliance due to negligence, the percentage of reduction shall not exceed 5 % and, in the case of *reoccurrence*, *shall not exceed* 15 %.

Member States may set up an early warning system applying to cases of non-compliance which, given their minor severity, extent and duration, shall not, in duly justified cases, lead to a reduction or exclusion. Where a Member State decides to make use of this option, the competent authority shall send an early warning to the beneficiary, notifying him or her the finding and the obligation to take remedial action. In case a subsequent check establishes that the non-compliance has not been remedied, the reduction pursuant to the first subparagraph shall be applied retroactively.

However, cases of non-compliance which constitute a direct risk to public or animal health shall *always lead to a reduction or exclusion*.

Member States may give priority access to the farm advisory system to the beneficiaries who have received for the first time an early warning.

3. In the case of intentional non-compliance, the percentage of reduction shall in principle not be less than 20 % and may go as far as total exclusion from one or several aid schemes and apply for one or more calendar years.
4. In any case, the total amount of reductions and exclusions for one calendar year shall not be more than the total amount referred to in the first subparagraph of paragraph 1.

Article 100

Amounts resulting from cross -compliance

Member States may retain **25 %** of the amounts resulting from the application of the reductions and exclusions referred to in Article 99.

Article 101

Commission powers in relation to the application and calculation of administrative penalties

1. In order to ensure a correct distribution of the funds to the entitled beneficiaries *and that cross-compliance is carried out in an efficient, coherent and non-discriminatory way*, the Commission shall be empowered to adopt delegated acts in accordance with Article 111:

- (a) to establish a harmonised basis for calculation of **administrative** penalties due to cross compliance *referred to in Article 99*, taking into account reductions due to financial discipline;
- (b) *on the conditions for the calculation and application of the administrative penalties due to cross-compliance, including in case of non-compliance directly attributable to the beneficiary concerned.*
2. *The Commission shall, by means of implementing acts, lay down detailed procedural and technical rules concerning the calculation and application of administrative penalties referred to in Articles 97 to 99, including as regards beneficiaries consisting of a group of persons under Articles 29 and 30 of Regulation (EU) No xxx/xxx [RD].*
- Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).*

TITLE VII COMMON PROVISIONS

Chapter I Communication

Article 102 Communication of information

1. In addition to the provisions laid down in the sectoral Regulations, Member States shall send to the Commission the following information, declarations and documents:
- (a) for accredited paying agencies and accredited coordinating bodies:
- (i) their accreditation document;
 - (ii) their function (accredited paying agency or accredited coordinating body);
 - (iii) where relevant, the withdrawal of their accreditation,
- (b) for certification bodies:
- (i) their name;
 - (ii) their address ■ ,
- (c) for measures relating to operations financed by the EAGF and the EAFRD:
- (i) declarations of expenditure, which also act as payment requests, signed by the accredited paying agency or the accredited coordinating body and accompanied by the requisite information;
 - (ii) estimates of their financial requirements, with regard to the EAGF and, with regard to the EAFRD, an update of estimated declarations of expenditure which will be submitted during the year and estimated declarations of expenditure in respect of the following financial year;

■
(iv) the management declaration ■ and the annual accounts of the accredited paying agencies;

(v) **an annual** summary of the results of all available audits and checks carried out in accordance with the schedule and detailed provisions laid down in the sector specific rules.

The annual accounts of accredited paying agencies relating to EAFRD expenditure shall be submitted at the level of each programme.

2. Member States shall inform the Commission in detail of the measures taken to implement the good agricultural and environmental condition referred to in Article 94 and the details of the farm advisory system referred to in Title III.
3. Member State shall inform the Commission regularly of the application of the integrated system referred to in Chapter II of Title V. The Commission shall organise exchanges of views on this subject with the Member States.

Article 103 Confidentiality

1. Member States and the Commission shall take all necessary steps to ensure the confidentiality of the information communicated or obtained under inspection and clearance of accounts measures implemented under this Regulation.

The rules laid down in Article 8 of ■ Regulation (Euratom, EC) No 2185/96¹ shall apply to that information.

2. Without prejudice to national provisions relating to legal proceedings, information collected in the course of scrutiny as provided for in Chapter III of Title V shall be protected by professional secrecy. It may not be communicated to any persons other than those who, by reason of their duties in the Member States or in the institutions of the Union, are required to have knowledge thereof for the purposes of performing those duties.

Article 104 Commission powers

The Commission may, by means of implementing acts, adopt rules pertaining to:

- (a) the form, content, intervals, deadlines and arrangements for transmitting or making available to the Commission:
 - (i) declarations of expenditure and estimates of expenditure and their updates, including assigned revenue;
 - (ii) management declaration ■ and annual accounts of the paying agencies, as well as the results of all available audits and controls carried out;
 - (iii) the account certification reports;

¹ ***Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities*** (OJ L 292, 15.11.1996, p. 2.)

- (iv) the names and particulars of accredited paying agencies, accredited coordinating bodies and certification bodies;
 - (v) arrangements for taking account of and paying expenditure financed by the EAGF and the EAFRD;
 - (vi) notifications of financial adjustments made by Member States in connection with rural development operations or programmes, and summary reports on the recovery procedures undertaken by the Member States in response to irregularities;
 - (vii) information on the measures taken pursuant to Article 60.
- (b) the arrangements governing exchanges of information and documents between the Commission and the Member States, and the implementation of information systems, including the type, format and content of data to be processed by these systems and the corresponding data storage rules;
 - (c) the notification to the Commission by Member States of information, documents, statistics and reports, as well as the deadlines and methods for their notification.

Those implementing acts ■ shall be adopted in accordance with the examination procedure referred to in Article 112(3).

CHAPTER II

Use of the euro

Article 105

General principles

1. The amounts given in the Commission decisions adopting rural development programmes, the amounts of commitments and payments by the Commission and the amounts of expenditure attested or certified and amounts in declarations of expenditure by the Member States shall be expressed and paid in euro.
2. The prices and amounts fixed in the sectoral agricultural legislation shall be expressed in euro.

They shall be granted or collected in euro in the Member States which have adopted the euro and in the national currency in the Member States which have not.

Article 106

Exchange rate and operative event

1. The prices and amounts referred to in Article 105(2) shall be converted in the Member States which have not adopted the euro into the national currency by means of an exchange rate.
2. The operative event for the exchange rate shall be:
 - (a) the completion of customs import or export formalities in the case of amounts collected or granted in trade with third countries;
 - (b) the event whereby the economic objective of the operation is attained in all other cases.

3. Where a direct payment as provided for in Regulation (EU) No DP/xxx is made to a beneficiary in a currency other than the euro, Member States shall convert the amount of aid expressed in euro into the national currency on the basis of the most recent exchange rate set by the European Central Bank prior to 1 October of the year for which the aid is granted.

By derogation from the first subparagraph, Member States may decide, in duly justified cases, to carry out the conversion on the basis of the average of the exchange rates set by the European Central Bank during the month prior to 1 October of the year for which the aid is granted. Member States choosing that option shall set and publish that average rate before 1 December of that year.

4. As regards EAGF, when drawing up their declarations of expenditure, Member States which have not adopted the euro shall apply the same exchange rate as that which they used to make payments to beneficiaries or receive revenue, in accordance with the provisions of this Chapter.
5. In order to specify the operative event referred to in paragraph 2 or to fix it for reasons peculiar to the market organisation or the amount in question, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 containing rules on those operative events and the exchange rate to be used. The specific operative event shall be determined taking account of the following criteria:
 - (a) actual applicability as soon as possible of adjustments to the exchange rate;
 - (b) similarity of the operative events for analogous operations carried out under the market organisation;
 - (c) coherence in the operative events for the various prices and amounts relating to the market organisation;
 - (d) practicability and effectiveness of checks on the application of suitable exchange rates.
6. In order to avoid the application by the Member States which have not adopted the euro of different exchange rates in accounts of revenue received or aid paid to beneficiaries in a currency other than the euro, on the one hand, and in the establishment of the declaration of expenditure drawn up by the paying agency, on the other, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 containing rules on the exchange rate applicable when declarations of expenditure are drawn up and public storage operations recorded in the accounts of the paying agency.

Article 107

Safeguard measures and derogations

1. The Commission may, by means of implementing acts, adopt measures in order to safeguard the application of Union legislation if exceptional monetary practices related to national currency are likely to jeopardise it. Those measures may, where necessary, ***only*** derogate from the existing rules ***for a period of time which is strictly necessary***.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

The European Parliament and the Council and the Member States shall be notified forthwith of the measures referred to in the first subparagraph.

2. Where exceptional monetary practices concerning a national currency are liable to jeopardise the application of Union legislation, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 derogating from this Section, in particular in the following cases:
 - (a) where a country uses abnormal exchange techniques such as multiple exchange rates or operates barter agreements;
 - (b) where countries have currencies which are not quoted on official foreign exchange markets or where the trend in such currencies is likely to create distortion in trade.

Article 108

Use of the euro by non-euro Member States

1. If a Member State which has not adopted the euro decides to pay the expenditure resulting from sectoral agricultural legislation in euro rather than in its national currency, the Member State shall take measures to ensure that the use of the euro does not provide a systematic advantage compared with the use of national currency.
2. The Member State shall notify the Commission of the measures planned before they come into effect. The measures may not take effect until the Commission has notified its agreement thereto.

CHAPTER III

Report and evaluation

Article 109

Annual financial report

By end September of each year following the budget year, the Commission shall draw up a financial report on the administration of the EAGF and the EAFRD during the previous financial year and shall submit it to the European Parliament and the Council.

Article 110

Monitoring and evaluation of *the CAP*

1. A common monitoring and evaluation framework shall be established with a view to measuring the performance of the **CAP**, and in particular of:
 - (a) the direct payments provided for in Regulation (EU) No .../DP [];
 - (b) the market measures provided for in Regulation (EU) No .../sCMO];
 - (c) the rural development measures provided for in Regulation (EU) No .../RD] and of,
 - (d) *the provisions of this Regulation.*

The Commission shall monitor these policy measures on the basis of reporting by Member States in accordance with the rules laid down in these Regulations. The Commission shall establish a multiannual evaluation plan with periodic evaluations of specific instruments which it will carry out.

In order to ensure an effective performance measurement the Commission shall be empowered to **adopt** delegated acts in accordance with Article 111 regarding the content and construction of that framework.

2. The **performance** of the **CAP** measures referred to in paragraph 1 shall be measured in relation to the following objectives:
 - (a) viable food production, with a focus on agricultural income, agricultural productivity and price stability;
 - (b) sustainable management of natural resources and climate action, with a focus on greenhouse gas emissions, biodiversity, soil and water;
 - (c) balanced territorial development, with a focus on rural employment, growth and poverty in rural areas.

The Commission shall define, by means of implementing acts, the set of indicators specific to the objectives referred to in the first subparagraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

The indicators shall be linked to the structure and objectives of the policy and shall allow for the assessment of the progress, effectiveness and efficiency of the policy against objectives.

3. ***The monitoring and evaluation framework shall reflect the structure of the CAP in the following way:***

(a) for the direct payments provided for in Regulation (EU) No DP/xxx, the market measures provided for in Regulation (EU) No CMO/xxx and the provisions of this Regulation, the Commission shall monitor these instruments based on reporting by Member States in accordance with the rules laid down in these regulations. The Commission shall establish a multi-annual evaluation plan with periodic evaluations of specific instruments to be carried out under Commission responsibility. Evaluations shall be carried out timely and by independent evaluators.

(b) the monitoring and evaluation of rural development policy intervention will be carried out according to Articles 74 to 86 of Regulation (EU) No RD/xxx.

The Commission shall ensure that the combined impact of all CAP instruments referred to in paragraph 1 will be measured and assessed in relation to the common objectives referred to in paragraph 2. The performance of the CAP in achieving its common objectives shall be measured and assessed on the basis of common impact indicators, and the underlying specific objectives on the basis of result indicators. Based on evidence provided in evaluations on the CAP, including evaluations on rural development programmes, as well as other relevant information sources, reports on measuring and assessing the joint performance of all CAP instruments shall be prepared by the Commission.

4. Member States shall provide the Commission with all the information necessary to permit the monitoring and evaluation of the measures concerned. ***As far as possible, such information shall be based on established sources of data, such as the Farm Accountancy Data Network and Eurostat.***

The Commission shall take into account the data needs and synergies between potential data sources, in particular their use for statistical purposes when appropriate.

The Commission shall adopt, by means of implementing acts, rules on the information to be sent by the Member States, ***taking into account the need to avoid any undue administrative***

burden, as well as on the data needs and synergies between potential data sources. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

5. The Commission shall present ***an initial*** report on the implementation of this Article, ***including first results on the performance of the CAP***, to the European Parliament and the Council ***not later than 31 December 2018***. A ***second report including an assessment of the performance of the CAP*** shall be presented not later than 31 December 2021.

Chapter IV

Transparency

Article 110a

Publication of beneficiaries

1. ***Member States shall ensure annual ex post publication of the beneficiaries of the EAGF and the EAFRD. The publication shall contain:***

- (a) ***without prejudice to the first paragraph of Article 110b of this Regulation, the name of the beneficiaries, as follows:***
 - (i) ***the first name and the surname where the beneficiaries are natural persons;***
 - (ii) ***the full legal name as registered where the beneficiaries are legal persons with the autonomous legal personality pursuant to the legislation of the Member State concerned;***
 - (iii) ***the full name of the association as registered or otherwise officially recognised where the beneficiaries are associations without an own legal personality;***
- (b) ***the municipality where the beneficiary resides or is registered and, where available, the postal code or the part thereof identifying the municipality;***
- (c) ***the amounts of payment corresponding to each measure financed by the EAGF and the EAFRD received by each beneficiary in the financial year concerned;***
- (d) ***the nature and the description of the measures financed by the EAGF or the EAFRD and under which the payment referred to in point (c) is awarded.***

The information referred to in the first subparagraph shall be made available on a single website per Member State. It shall remain available for two years from the date of the initial publication.

2. ***As regards the payments corresponding to the measures financed by the EAFRD as referred to in point (c) of the first subparagraph of paragraph 1, the amounts to be published shall correspond to the total public funding, including both the Union and the national contribution.***

Article 110b

Threshold

Member States shall not publish the name of a beneficiary as provided for in point (a) of the first subparagraph of Article 110a (1) of this Regulation in the following situations:

- (a) ***in the case of Member States establishing the Small farmers scheme provided for in Title V of Regulation (EU) No DP/xxx, where the amount of aid received in one year by***

a beneficiary is equal or less than the amount fixed by the Member State as referred to in Article 49(1) second subparagraph or Article 49(2) second subparagraph of that Regulation;

(b) in the case of Member States not establishing the Small farmers scheme provided for in Title V of Regulation (EU) No DP/xxx, where the amount of aid received in one year by a beneficiary is equal or less than EUR 1250.

In the case covered by point (a) of the first subparagraph, the amounts fixed by the Member States pursuant to Article [49] of Regulation (EU) No DP/xxx and notified to the Commission under that Regulation shall be made public by the Commission in accordance with the rules adopted under Article 110d.

Where the first paragraph of this Article applies the Member States shall publish the information referred to in points (b), (c) and (d) of the first subparagraph of Article 110a(1) and the beneficiary shall be identified by a code. Member States shall decide on the form of that code.

Article 110c Information of the beneficiaries

Member States shall inform the beneficiaries that their data will be made public in accordance with Article 110a and that the data may be processed by auditing and investigating bodies of the Union and the Member States for the purpose of safeguarding the Union's financial interests.

In accordance with the requirements of Directive 95/46/EC, where personal data is concerned, the Member States shall inform the beneficiaries of their rights under the data protection rules and of the procedures applicable for exercising those rights.

Article 110d Commission powers

The Commission shall, by means of implementing acts, lay down rules:

- (a) on the form, including the way of presentation by measure, and the calendar of the publication foreseen in Articles 110a and 110b;*
- (b) for the uniform application of Article 110c;*
- (c) on the cooperation between the Commission and Member States.*

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

TITLE VIII FINAL PROVISIONS

Article 111 Exercise of the delegation

1. The power to adopt delegated acts *referred to in Articles 8, 20, 42, 48, 52, 55, 59, 64, 65, 66, 66a, 67, 73, 77, 77a, 79, 84, 89, 93, 101, 106, 107, 110 and 114* is conferred on the Commission subject to the conditions laid down in this Article.
2. The **■** power *to adopt delegated acts* referred to in *Articles 8, 20, 42, 48, 52, 55, 59, 64, 65, 66, 66a, 67, 73, 77, 77a, 79, 84, 89, 93, 101, 106, 107, 110 and 114* shall be conferred on the Commission for a period of *seven years* from the *date of* entry into force of this Regulation. *The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*
3. The delegation of powers referred to in *Articles 8, 20, 42, 48, 52, 55, 59, 64, 65, 66, 66a, 67, 73, 77, 77a, 79, 84, 89, 93, 101, 106, 107, 110 and 114* may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to *in Articles 8, 20, 42, 48, 52, 55, 59, 64, 65, 66, 66a, 67, 73, 77, 77a, 79, 84, 89, 93, 101, 106, 107, 110 and 114* shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Article 112 Committee procedure

1. The Commission shall be assisted by a *committee named the* "Committee on the Agricultural Funds". That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

For the purposes of Articles 15, 60, 64, 65, 66, 66a, 67, 76, 77a, 78, 89, 90, 96, 101 and 104, as regards matters relating to direct payments, rural development and/or the common organisation of markets, the Commission shall be assisted by the Committee on the Agricultural Funds, the Committee for Direct Payments, the Rural Development Committee and/or the Committee for the Common Organisation of the Agricultural Markets established by this Regulation, Regulation (EU) No xxx/xxxx [DP], Regulation (EU) No xxx/xxxx [RD] and Regulation (EU) No xxx/xxxx [sCMO], respectively. Those committees shall be committees within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

In the case of acts referred to in Article 8, where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Article 112a

Processing and protection of personal data

- 1. Member States and the Commission shall collect personal data for the purpose of carrying out their respective management, control, audit as well as monitoring and evaluation obligations under this Regulation and, in particular, those laid down in Chapter II of Title II, Title III, Chapters III and IV of Title IV, Titles V and VI and Chapter III of Title VII, as well as for statistical purposes, and shall not process this data in a way incompatible with this purpose.***
- 2. Where personal data are processed for monitoring and evaluation purposes under Chapter III of Title VII, as well as for statistical purposes, they shall be made anonymous and processed in aggregated form only.***
- 3. Personal data shall be processed in accordance with the rules of Directive 95/46/EC and Regulation (EC) No 45/2001. In particular, such data shall not be stored in a form which permits identification of data subjects for longer than is necessary for the purposes for which they were collected or for which they are further processed, taking into account the minimum retention periods laid down in the applicable national and Union law.***
- 4. Member States shall inform the data subjects that their personal data may be processed by national and Union bodies in accordance with paragraph 1 and that in this respect they enjoy the rights set out in the data protection rules of, respectively, Directive 95/46/EC and Regulation (EC) No 45/2001.***
- 5. This Article shall be subject to Article 110a to 110d.***

Article 112b

Level of implementation

Member States shall be responsible for implementing programmes and carrying out their tasks under this Regulation at the level they deem appropriate, in accordance with the institutional, legal and financial framework of the Member State and subject to compliance with this Regulation and other relevant Union rules.

Article 113

Repeal

- 1. Regulations (EEC) No 352/78, (EC) No **165/94**, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 are repealed.***

However, Article 31 of Regulation (EC) No 1290/2005 and the relevant implementing rules shall continue to apply until 31 December 2014.

- 2. References to the repealed Regulations shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex III.***

Article 114

Transitional measures

In order to ensure the smooth transition from the arrangements provided for in the repealed Regulations referred to in Article 113 to those laid down in this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 ***concerning the cases where derogations from, and additions to, the rules provided for in this Regulation may apply.***

Article 115 Entry into force and application

1. This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2014.

2. However, the following provisions shall apply ■ :

(a) Articles 7, 8, ***16, 24a, 25 and 45 from 16 October 2013;***

(b) Articles 18 ***and 42 for*** expenditure incurred from 16 October 2013;

(c) ***Article 54 from 1 January 2015.***

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

ANNEX I

Information in the field of climate change mitigation and adaptation, biodiversity ***and*** the protection of water ■ as laid down in Article 12(3)(d)

■

Climate change mitigation and adaptation:

- Information on prospective impacts of climate change in the relevant regions, of the green house gas emissions of the relevant farming practices and on the contribution of the agricultural sector to mitigation through improved farming and agroforestry practices and through the development of renewable energy projects on farm and energy efficiency improvement on farm.
- ***Information helping farmers to plan how best to invest in "climate-proofing" their farm systems, and which Union funds they can use to do so; specifically, information on adapting farmland to climatic fluctuations and longer term changes and information on how to adopt practical agronomic measures to increase the resilience of farming systems to floods and droughts and to improve and optimise soil carbon levels.***

■

Biodiversity:

- *Information on the positive correlation between biodiversity and agro-ecosystem resilience, and the spreading of risk, and also the link between monocultures and susceptibility to crop failure/damage from pests and extreme climatic events*
- *Information on how to best prevent the spread of alien invasive species and why this is important for the effective functioning of the ecosystem and for its resilience against climate change, including information on access to funding for eradication schemes where additional costs are implied*

Protection of water:

- *Information on sustainable, low volume irrigation systems and how to optimise rain-fed systems, to promote efficient water use.*
- *Information on reducing water use in agriculture, including crop choice, on improving soil humus to increase water retention and on decreasing the need to irrigate.*

General

- *Exchange of best practice, training and capacity building (horizontal to all themes mentioned above).*

ANNEX II

Rules on cross compliance pursuant to Article 93

SMR: Statutory management requirement

GAEC: Standards for good agricultural and environmental condition of land

Area	Main Issue	Requirements and standards		
Environment, climate change, good agricultural condition of land	Water	SMR 1	Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1)	Articles 4 and 5
		GAEC 1	Establishment of buffer strips along water courses ¹	
		GAEC 2	Where use of water for irrigation is subject to authorisation, compliance with authorisation procedures	

¹ The GAEC buffer strips must respect, both within and outside vulnerable zones designated pursuant to Article 3(2) of Directive 91/676/EEC, at least the requirements relating to the conditions for land application of fertiliser near water courses, referred to in point A.4 of Annex II to Directive 91/676/EEC to be applied in accordance with the action programmes of Member States established under Article 5(4) of Directive 91/676/EEC.

Area	Main Issue	Requirements and standards		
	Soil and carbon stock	GAEC 3	Protection of ground water against pollution: prohibition of direct discharge into groundwater and measures to prevent indirect pollution of groundwater through discharge on the ground and percolation through the soil of dangerous substances, as listed in the Annex to ■ Directive 80/68/EEC <i>in its version in force on the last day of its validity, as far as it relates to agricultural activity</i>	
		GAEC 4	Minimum soil cover	
		GAEC 5	Minimum land management reflecting site specific conditions to limit erosion	
		GAEC 6	Maintenance of soil organic matter level <i>through appropriate practices</i> including ban on burning arable stubble, <i>except for plant health reasons</i> ¹	
		■	■	
	Biodiversity	SMR 2	Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7)	Article 3(1), Article 3(2)(b), Article 4 (1), (2) and (4)
		SMR 3	Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna (OJ L 206, 22.7.1992, p. 7)	Article 6 (1) and (2)
	Landscape, minimum level of maintenance ,	GAEC 7	Retention of landscape features, including where appropriate, hedges, ponds, ditches, trees in line, in group or isolated, field margins and terraces, and including a ban on cutting hedges and trees during the bird breeding and rearing season and, <i>as an option</i> , measures for avoiding invasive <i>plant</i> species ■	
Public health, animal health and plant	Food safety	SMR 4	Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general	Articles 14 and 15,

¹ *The requirement can be limited to a general ban on burning arable stubble, but a Member State may decide to prescribe further requirements.*

Area	Main Issue	Requirements and standards		
health			principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1)	Article 17(1) ¹ and Articles 18, 19 and 20
		SMR 5	Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and beta-agonists (OJ L125, 23.5.1996, p.3)	Article 3(a), (b), (d) and (e) and Articles 4, 5 and 7
	Identification and registration of animals	SMR 6	Council Directive 2008/71/EC of 15 July 2008 on identification and registration of pigs (OJ L 213, 8.8.2005, p. 31)	Articles 3, 4 and 5
		SMR 7	Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products (OJ L 204, 11.8.2000, p. 1)	Articles 4 and 7
		SMR 8	Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals (OJ L 5, 9.1.2004, p. 8)	Articles 3, 4 and 5
	Animal diseases	SMR 9	Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ L 147, 31.5.2001, p. 1)	Articles 7, 11, 12, 13 and 15
	Plant protection products	SMR 10	Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of	Article 55, first and

¹ As implemented in particular by:

— **Article 14 of Regulation (EC) No 470/2009 and the Annex of Regulation (EC) No 37/2010,**

— Regulation (EC) No 852/2004: Article 4(1) and Annex I part A (II 4 (g, h, j), 5 (f, h), 6; III 8 (a, b, d, e), 9 (a, c)),

— Regulation (EC) No 853/2004: Article 3(1) and Annex III Section IX Chapter 1 (I-1 b, c, d, e; I-2 a (i, ii, iii), b (i, ii), c; I-3; I-4; I-5; II-A 1, 2, 3, 4; II-B 1(a, d), 2, 4 (a, b)), Annex III Section X Chapter 1(1),

— Regulation (EC) No 183/2005: Article 5(1) and Annex I, part A (I-4 e, g; II-2 a, b, e), Article 5(5) and Annex III (1, 2), Article 5(6), and

— Regulation (EC) No 396/2005: Article 18.

Area	Main Issue	Requirements and standards		
			plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p.1)	second sentence
Animal welfare	Animal welfare	SMR 11	Council Directive 2008/119/EC of 18 December 2008 laying down minimum standards for the protection of calves (OJ L 10, 15.1.2009, p. 7)	Articles 3 and 4
		SMR 12	Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs (OJ L 47, 18.2.2009, p. 5)	Article 3 and Article 4
		SMR 13	Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes (OJ L 221, 8.8.1998, p. 23)	Article 4

I

ANNEX TO THE LEGISLATIVE RESOLUTION

STATEMENT FROM THE EUROPEAN PARLIAMENT AND COUNCIL on cross-compliance

The Council and the European Parliament invite the Commission to monitor the transposition and the implementation by the Member States of Directive 2000/60/EC of 23 October 2000 establishing a framework for Community action in the field of water policy and Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides and, where appropriate, to come forward, once these Directives have been implemented in all Member States and the obligations directly applicable to farmers have been identified, with a legislative proposal amending this regulation with a view to including the relevant parts of these Directives in the system of cross-compliance.

STATEMENT FROM THE COMMISSION on relation to late payments made by the paying agencies to beneficiaries (Article 42(1))

The European Commission declares that when it adopts rules on the reduction of reimbursement to the paying agencies in case of payment made to the beneficiaries after the latest possible date laid down by Union legislation, the scope of the current provisions related to late payments for EAGF will be maintained.

STATEMENT FROM THE COMMISSION on the level of implementation (Article 112b)

The European Commission confirms that in accordance with Article 4(2) TEU, the Union respects Member States' constitutional structures and, therefore, Member States are responsible for deciding at which territorial level they wish to implement the common agricultural policy, subject to respecting Union law and ensuring its effectiveness. This principle is applicable to all four Regulations of the CAP reform.

21.6.2012

OPINION OF THE COMMITTEE ON DEVELOPMENT

for the Committee on Agriculture and Rural Development

on the proposal for a regulation of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy (COM(2011)0628 – C7-0341/2011 – 2011/0288(COD))

Rapporteur: Birgit Schnieber-Jastram

SHORT JUSTIFICATION

From the perspective of development policy, one could suggest an entirely different CAP than that presented in the reform proposals by the Commission. However, a number of well-known incoherencies have been dealt with during past CAP reforms, a trend continued by the current Commission proposals. Farm support has been largely decoupled and the roles of market intervention mechanisms and export refunds have been significantly reduced.

One of the major innovations in the latest reform proposal is the mandatory greening component of direct payments, by supporting environmental measures across the EU, giving priority to climate and environmental policy goals. This will not create a competitive situation with farmers in developing countries. In addition, the mandatory environmental measures will contribute to curbing climate change, which has heavy repercussions on many developing countries. While details may have to be improved, the rapporteur strongly supports the greening component of the Commission proposal.

Despite the positive trends, however, there are still real problems that should be addressed from the viewpoint of development policy. The reformed CAP continues to have external effects which are not sufficiently reflected in the Commission proposals. Therefore, the CAP regulations must be carefully checked in the light of the Treaty obligation to ensure Policy Coherence for Development (PCD) (Article 208 TFEU).

There are no across-the-board-impacts of the CAP on all developing countries, but it has been shown that in concrete cases individual CAP measures can lead to import surges in developing countries which threaten the livelihoods of local farmers and undermine agricultural sector policies adopted by developing countries to enhance their long-term food security. In addition, in the light of a broader understanding of PCD which goes beyond "do no harm", some elements of the "second pillar" could help create synergies and enhance cooperation between farmers in Europe and the developing world.

The rapporteur therefore proposes amendments along the following lines:

- The CAP should be placed in the broader framework of the EU's Policy Coherence for Development and its external impacts should be closely monitored, involving the governments and stakeholders of the partner countries.
- Export subsidies should be totally phased out. In the meantime, export refunds should not be granted if there is a risk of serious harm for local producers in developing countries. In general, safety net measures such as intervention buying can lead to a replacement of adjustment costs for non-EU producers.
- The EU's policy and dependence on protein plant imports has negative environmental and social impacts in exporting developing countries. Promoting the growing of leguminous crops in Europe could also mitigate climate change and could positively contribute to biodiversity and soil fertility.
- As already proposed by the Development Committee in 2011, direct payments should be decoupled from production "so as to create a level playing field between EU and developing countries' agricultural products and stimulate fair trade and sustainable growth".

The rapporteur is aware that these changes alone will not be sufficient to address the global challenge of food security and the concerns of developing countries as regards the functioning of agricultural markets. Other policies, in particular EU trade policy, but also energy policy or food safety policy, crucially affect the developing world but these challenges can not be addressed in the context of this reform proposal.

Another issue which should not be addressed in the context of these regulations is the proposal for a complaints mechanism for developing countries in cases of a violation of the EU's development objectives enshrined in Article 208 TFEU. The rapporteur suggests responding to this challenge in the broader context of development, e.g. the European Parliament's report on Policy Coherence for Development for 2012.

Development policy and policy dialogue have to be used in a targeted manner to enable developing countries to benefit from international agricultural trade and to apply, as the Union does, modern market management instruments. Measures that have a positive effect in one developing country might have adverse effects in another. That is why the rapporteur has tried to take an approach based on principles rather than on the micro-management of markets.

The core challenge for PCD is when interests in developing countries and in Europe conflict. The long-term perspective is that these interests can be aligned and the creation of win-win situations can be facilitated. Thus, the aim of the rapporteur's proposals is not to undermine the CAP's legitimate goals but to make selective adjustments where they are deemed necessary from the perspective of development policy.

AMENDMENTS

The Committee on Development calls on the Committee on Agriculture and Rural Development, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation Recital 1a (new)

Text proposed by the Commission

Amendment

(1a) The reform should ensure that, in accordance with Article 208 of the Treaty on the Functioning of the European Union (TFEU), objectives of development cooperation, including those approved in the context of the United Nations and other international organisations, are taken into account by the CAP. Measures taken under this regulation should not jeopardize the food production capacity and long term food security of developing countries, in particular least developed countries (LDCs), and contribute to achieving the Union's commitments on mitigating climate change.

Justification

According to Article 208 TFEU, all EU policies which are likely to affect developing countries must take development objectives into account. Facilitating developing countries' agricultural development and enhancing global food security are major objectives of EU development cooperation. The EU's agricultural policy has external effects, influencing in particular agricultural trade. The PCD principle requires that potential repercussions on local agricultural markets and local producers in developing countries be monitored and, wherever possible, avoided.

Amendment 2

Proposal for a regulation Recital 68a (new)

Text proposed by the Commission

Amendment

(68a) In accordance with the principle of policy coherence for development, the implementation of the CAP should be subject to regular monitoring and assessment as regards its impact on food production capacity and long term food security of developing countries, in particular of LDCs.

Justification

The recital should reflect the proposed new article on regular impact assessments.

Amendment 3

Proposal for a regulation Article 110 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) viable food production, with a focus on ***agricultural*** income, agricultural productivity and price stability;

(a) viable food production, with a focus on ***farmer's*** income, ***price margins***, agricultural productivity and price stability;

Amendment 4

Proposal for a regulation Article 110 a (new)

Text proposed by the Commission

Amendment

Article 110a

Assessment of impact on developing countries

1. In accordance with Article 208 TFEU, the impact of the CAP on food production capacity and long term food security in developing countries shall be subject to

regular and independent assessments, paying special attention to the impact on local and smallholder producers. The assessment shall also build on evidence submitted by governments, farmers' organisations, civil society organisations and other stakeholders in developing countries which are trading partners of the Union.

2. The Commission shall define, by means of implementing acts, the scope of and the procedure for the impact assessment, taking into account relevant international initiatives, in particular by the United Nations Special Rapporteur on the Right to Food, the FAO, and the Committee on Food Security. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

3. The Commission shall submit an annual report to the European Parliament and to the Council on the results of the assessment, the evidence received and the Union's policy response.

Justification

The impact of different CAP instruments on agricultural development in developing countries depends on factors such as world market prices, trade regimes, production capacities and policy choices in the partner countries. As acknowledged by the Commission Impact Assessment of the CAP reform proposals, impacts have to be assessed on a case-by-case basis. Regular assessment is therefore required, which would include mechanisms for receiving evidence from within the partner countries and take into account international developments in this area.

PROCEDURE

Title	Financing, management and monitoring of the CAP						
References	COM(2011)0628 – C7-0341/2011 – 2011/0288(COD)						
Committee responsible Date announced in plenary	AGRI 25.10.2011						
Opinion by Date announced in plenary	DEVE 25.10.2011						
Rapporteur Date appointed	Birgit Schnieber-Jastram 7.12.2011						
Discussed in committee	24.4.2012						
Date adopted	19.6.2012						
Result of final vote	<table> <tr> <td>+: </td><td>26</td></tr> <tr> <td>–: </td><td>0</td></tr> <tr> <td>0: </td><td>0</td></tr> </table>	+:	26	–:	0	0:	0
+:	26						
–:	0						
0:	0						
Members present for the final vote	Thijs Berman, Michael Cashman, Véronique De Keyser, Nirj Deva, Leonidas Donskis, Catherine Grèze, Filip Kaczmarek, Michał Tomasz Kamiński, Gay Mitchell, Norbert Neuser, Jean Roatta, Birgit Schnieber-Jastram, Michèle Striffler, Keith Taylor, Eleni Theocharous, Patrice Tirolien, Ivo Vajgl, Anna Záborská, Iva Zanicchi						
Substitute(s) present for the final vote	Agustín Díaz de Mera García Consuegra, Gesine Meissner, Csaba Őry, Judith Sargentini, Patrizia Toia						
Substitute(s) under Rule 187(2) present for the final vote	Ioan Enciu, Gabriele Zimmer						

17.10.2012

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Agriculture and Rural Development

on the proposal for a regulation of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy (COM(2011)0628 – C7-0341/2011 – 2011/0288(COD))

Rapporteur: Georgios Papastamkos

SHORT JUSTIFICATION

The simplification of the often complex administration of the CAP constitutes a high priority, which needs to be balanced with the imperative need to guarantee an effective protection of the financial interests of the Union.

Better regulation and the reduction of bureaucracy to farmers needs to be an important component of the future CAP. Any undue administrative burden and cost to national authorities should also be avoided, especially in the light of fiscal consolidation by the Member States and the scarcity of resources. Shared management between the Commission and the Member States is required in order to ensure a sound and targeted management of the Union funds towards the delivery of crucial public goods through the multifunctional CAP.

The aim of the proposal of the Commission is to lay down, in one single regulation (Horizontal Regulation) the CAP's financial provisions on cross-compliance, checks and penalties and the farm advisory system and hereby replacing Council Regulation (EC) No 1290/2005.

In brief, the Commission proposes to limit the number of paying agencies to one per Member State or one per region. It extends the competences of the certification bodies, including the control of the legality and regularity of the underlying transactions, currently exercised by the Commission. Regarding the Farm Advisory system, its compulsory scope in the Member States is extended. In relation to cross compliance, the Commission introduces certain modifications to the GAEC and SMR requirements. A common monitoring and evaluation framework for both pillars of the CAP is proposed by the Commission. In order to guarantee that the annual budget ceiling is not exceeded, the Commission shall operate a monthly early-warning and monitoring system.

Concerning recoveries, the Commission proposes that non-recovery shall be borne in its

totality by the national budgets of the Member States, whilst it is currently shared between the EU budget and the national budgets. The currently applying rule of shared financial consequences of non-recovery is reinstated, as are the percentages of the recovered amounts that can be retained by Member States (Articles 57(2) and 100), since they offset the administrative cost carried by Member States and thus contribute to a more effective control system.

It is of paramount importance to ensure compliance with the requirements of public interest linked to the granting of payments. At the same time farmers need targeted advice, as to the requirements that need to be respected. Controls and financial corrections shall be effective and dissuasive, but also proportionate

This report has been based on the aggregate financial amounts, which the Commission has earmarked for the CAP within the next multiannual financial framework. Should fundamental changes be made to that proposal, the substance of this opinion would need to be revised.

AMENDMENTS

The Committee on Budgets calls on the Committee on Agriculture and Rural Development, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation **Recital 3**

Text proposed by the Commission

(3) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt delegated acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the accreditation of the paying agencies and coordinating bodies, the content of the Farm Advisory System, the measures to be financed by Union budget under public intervention and the valuation of the operations in connection with public intervention, the reductions and suspension of the reimbursements to the Member States, the compensation between expenditure and revenues under the Funds, the recovery of debts, the penalties applied to beneficiaries in case of non-compliance

Amendment

(3) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt delegated acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the accreditation of the paying agencies and coordinating bodies, the content of the Farm Advisory System, the measures to be financed by Union budget under public intervention and the valuation of the operations in connection with public intervention, the reductions and suspension of the reimbursements to the Member States, the compensation between expenditure and revenues under the Funds, the recovery of debts, the *administrative* penalties applied to beneficiaries in case of

with the eligibility conditions, in respect of rules on securities, on the functioning of the integrated administration and control system, of the measures excluded from the scrutiny of transactions, the penalties applied under cross compliance, the rules on maintenance of permanent grassland, the rules on the operative event and the exchange rate to be used by the Member States not using the euro and in respect of the content of the common evaluation framework of the measures adopted under the CAP. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

non-compliance with the eligibility conditions, in respect of rules on securities, on the functioning of the integrated administration and control system, of the measures excluded from the scrutiny of transactions, the penalties applied under cross compliance, the rules on maintenance of permanent grassland **and pasture**, the rules on the operative event and the exchange rate to be used by the Member States not using the euro and in respect of the content of the common evaluation framework of the measures adopted under the CAP. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

(These two amendments, replacing 'penalty' with 'administrative penalty' and 'permanent grassland' with 'permanent grassland and pasture', apply throughout the text; adopting them will necessitate corresponding changes throughout.)

Justification

The term 'penalty' is replaced by 'administrative penalty', within the meaning of Articles 4 and 5 of Regulation (EC, Euratom) No 2988/95 on the protection of the European Communities' financial interests.

Amendment 2

Proposal for a regulation Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) This Regulation should provide, where appropriate, for exemptions in cases of force majeure and exceptional

circumstances. The concept of force majeure in the sphere of agricultural regulations should be interpreted in light of the case law of the Court of Justice of the European Union.

Amendment 3

Proposal for a regulation Recital 54

Text proposed by the Commission

Amendment

(54) As regards Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy the provisions will only be operational under cross compliance when all Member States will have fully implemented them in particular with clear obligations for farmers. According to the Directive the requirements at farm level will be applied at the latest by 1 January 2013.

deleted

Amendment 4

Proposal for a regulation Recital 55

Text proposed by the Commission

Amendment

(55) As regards Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides the provisions will only be operational under cross compliance when all Member States will have fully implemented them in particular with clear obligations for farmers. According to the Directive the requirements at farm level will be progressively applied following a time schedule and in particular the general

deleted

*principles of integrated pest management
will be applied at the latest by 1 January
2014.*

Amendment 5

Proposal for a regulation Title IV – Chapter II– Section 4

Text proposed by the Commission

Amendment

Section 4 deleted

Amendment 6

Proposal for a regulation Article 2 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

***The term "Sectoral agricultural
legislation" means any applicable act
adopted on the basis of Article 43 of the
Treaty on the Functioning of the
European Union (TFEU) within the
framework of the common agricultural
policy as well as, where applicable, any
delegated or implementing acts adopted
on the basis of those acts.***

Amendment 7

Proposal for a regulation Article 2 – paragraph 1 – subparagraph 2 b (new)

Text proposed by the Commission

Amendment

***The term "Irregularity" means an
irregularity within the meaning of Article
1(2) of Council Regulation (EC,
Euratom) No 2988/95 of 18 December
1995 on the protection of the European
Communities financial interests¹;***

Amendment 8

Proposal for a regulation

Article 9 – paragraph 1 - subparagraph 1

Text proposed by the Commission

1. The certification body shall be a public or private audit body ***designated by the Member State*** which shall provide an opinion on the management declaration of assurance covering the completeness, accuracy and veracity of the annual accounts of the paying agency, the proper functioning of its internal control system, the legality and regularity of the underlying transactions, as well as the respect of the principle of sound financial management.

Amendment

1. The certification body shall be a public or private audit body, ***selected by means of a public tendering procedure by the Member State***, which shall provide an opinion, ***drawn up in accordance with Union audit standards***, on the management declaration of assurance covering the completeness, accuracy and veracity of the annual accounts of the paying agency, the proper functioning of its internal control system, the legality and regularity of the underlying transactions, as well as the respect of the principle of sound financial management.

Amendment 9

Proposal for a regulation

Article 25 – paragraph 2

Text proposed by the Commission

2. The Council, acting on a proposal from the Commission presented no later than 31 March of the calendar year in respect of which the adjustment referred to in paragraph 1 applies, shall determine the adjustment no later than 30 June of the same calendar year.

Amendment

2. The ***European Parliament and the Council***, acting on a proposal from the Commission presented no later than 31 March of the calendar year in respect of which the adjustment referred to in paragraph 1 applies, shall determine the adjustment no later than 30 June of the same calendar year.

Justification

In line with the position adopted by Parliament on 4 July 2012 (P7_TA-PROV(2012)0281) in the framework of the process of alignment with the Lisbon Treaty provisions.

Amendment 10

Proposal for a regulation Article 26 – paragraph 2

Text proposed by the Commission

2. If, on drawing up the draft budget for financial year N, there appears to be a risk that the amount referred to in Article 16 for financial year N will be exceeded, the Commission shall propose to the European Parliament and the Council ***or to the Council*** the measures necessary to ensure compliance with that amount.

Amendment

2. If, on drawing up the draft budget for financial year N, there appears to be a risk that the amount referred to in Article 16 for financial year N will be exceeded, the Commission shall propose to the European Parliament and the Council the measures necessary to ensure compliance with that amount.

Justification

In line with the position adopted by Parliament on 4 July 2012 (P7_TA-PROV(2012)0281) in the framework of the process of alignment with the Lisbon Treaty provisions.

Amendment 11

Proposal for a regulation Article 26 – paragraph 3

Text proposed by the Commission

3. At any time, if the Commission considers that there is a risk of the amount referred to in Article 16 being exceeded and that it cannot take adequate measures to remedy the situation under its powers, it shall propose other measures to ensure compliance with that amount. These measures shall be adopted ***by the Council on the basis of Article 43(3) of the Treaty or*** by the European Parliament and the Council on the basis of Article 43(2) of the Treaty.

Amendment

3. At any time, if the Commission considers that there is a risk of the amount referred to in Article 16 being exceeded and that it cannot take adequate measures to remedy the situation under its powers, it shall propose other measures to ensure compliance with that amount. These measures shall be adopted by the European Parliament and the Council on the basis of Article 43(2) of the Treaty.

Justification

In line with the position adopted by Parliament on 4 July 2012 (P7_TA-PROV(2012)0281) in the framework of the process of alignment with the Lisbon Treaty provisions.

Amendment 12

Proposal for a regulation Article 38

Text proposed by the Commission

Amendment

The Commission Decision adopting the list of the projects to which the Prize for innovative, local cooperation is awarded, as referred to in Article 58(4) of Regulation (EU) No RD/xxx shall constitute a financing decision within the meaning of Article [75(2)] of Regulation (EU) No FR/xxx. **deleted**

Following the adoption of the Decision referred to in the first paragraph, the Commission shall make a budget commitment by Member State for the total amount of the prizes granted to projects in that Member State within the limit referred to in Article 51(2) of Regulation (EU) No RD/xxx.

Amendment 13

Proposal for a regulation Article 39

Text proposed by the Commission

Amendment

1. Within the framework of the interim payments referred to in Article 35, the Commission shall make payments in order to reimburse the expenditure incurred by accredited paying agencies in awarding the Prizes referred to in this Section in the limits of the available budget commitments for the Member States concerned. **deleted**

2. Each payment shall be subject to the transmission to the Commission of a declaration of expenditure signed by the

accredited paying agency, in accordance with Article 102(1)(c).

3. Accredited paying agencies shall establish and forward, either directly or via the intermediary of the coordinating body, where one has been appointed, declarations of expenditure relating to the Prize for innovative, local cooperation to the Commission, within periods set by the Commission by means of implementing acts adopted in accordance with the examination procedure referred to in Article 112(3).

Declarations of expenditure shall cover expenditure that the paying agencies have incurred during each of the periods concerned.

Amendment 14

Proposal for a regulation Article 40

Text proposed by the Commission

Amendment

The Commission shall automatically decommit the amounts referred to in the second subparagraph of Article 38 that have not been used for reimbursing the Member States as laid down in Article 39 or for which no declaration of expenditure meeting the conditions laid down in that Article has been presented to it in relation to expenditure incurred by 31 December of the second year following that of the budget commitment.

deleted

Article 37(3), (4) and (5) shall apply mutatis mutandis.

Amendment 15

Proposal for a regulation Article 44

Text proposed by the Commission

When sectoral agricultural legislation requires Member States to submit, within a specific period of time, information on the numbers of checks carried out and their outcome and the Member States overrun that period, the Commission may suspend the monthly payments referred to in Article 18 or the interim payments referred to in Article 35 for which the relevant statistical information has not been sent in time.

Amendment

When sectoral agricultural legislation requires Member States to submit, within a specific period of time, information on the number of checks carried out ***under Article 61*** and their outcome and the Member States overrun that period, the Commission may suspend, ***in accordance with the principle of proportionality***, the monthly payments referred to in Article 18 or the interim payments referred to in Article 35 for which the relevant statistical information has not been sent in time.

Amendment 16

Proposal for a regulation Article 49 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. The Commission shall give sufficient prior notice of an on-the-spot check to the Member State concerned or the Member State within whose territory the check is to take place. Agents from the Member State concerned may take part in such checks.

Amendment

2. The Commission shall give sufficient prior notice of an on-the-spot check to the Member State concerned or the Member State within whose territory the check is to take place ***and shall coordinate checks to be conducted, as far as possible concurrently, as laid down in Article 61(4) of this Regulation***. Agents from the Member State concerned may take part in such checks.

Amendment 17

Proposal for a regulation Article 51 – paragraph 1

Text proposed by the Commission

1. The accredited paying agencies shall keep supporting documents relating to payments made and documents relating to the performance of the administrative and physical checks required by Union legislation, and shall make the documents and information available to the Commission.

Amendment

1. The accredited paying agencies shall keep supporting documents relating to payments made and documents relating to the performance of the administrative and physical checks required by Union legislation, and shall make the documents and information available to the Commission. ***Those supporting documents may also be kept in electronic form.***

Justification

In line with the Commission implementing Regulation (EU) No 375/2012 of 2 May 2012 (OJ L 118, 3.5.2012, p. 4-5).

Amendment 18

Proposal for a regulation Article 54 – paragraph 3 – subparagraph 2

Text proposed by the Commission

3. If agreement is not reached, the Member State may request opening of a procedure aimed at reconciling each party's position within four months. A report of the outcome of the procedure shall be given to the Commission, which shall ***examine it*** before deciding on any refusal of financing.

Amendment

3. If agreement is not reached, the Member State may request opening of a procedure aimed at reconciling each party's position within four months. A report of the outcome of the procedure shall be given to the Commission, which shall ***take it into account*** before deciding on any refusal of financing.

Justification

The outcome of the conciliation procedure shall have a greater influence in the conformity clearance procedure.

Amendment 19

Proposal for a regulation Article 56 – paragraph 1

Text proposed by the Commission

1. For any undue payment following the occurrence of irregularity or negligence, Member States shall request recovery from the beneficiary within one year ***of the first indication that such*** an irregularity has taken place ***and shall record the*** corresponding amounts in the debtors' ledger of the paying agency.

Amendment

1. For any undue payment following the occurrence of irregularity or negligence, Member States shall request recovery from the beneficiary within one year ***after a control report or similar document, stating that*** an irregularity has taken place, ***has been approved and, where applicable, received by the paying agency or body responsible for the recovery. The*** corresponding amounts ***shall, at the time of the recovery request, be recorded*** in the debtors' ledger of the paying agency.

Justification

The term 'first indication' is too vague, whilst legal precision is essential in the context of the recovery procedure.

Amendment 20

Proposal for a regulation Article 60 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The existing control and sanction systems shall be used in relation to any additional payment schemes, thus avoiding any extra administrative burden and/or cost;

Amendment 21

Proposal for a regulation

Article 73 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States may decide that an aid application or a payment claim that fulfils the requirements laid down in paragraph 1 shall remain valid for a number of years provided that beneficiaries concerned are under the obligation to report any change to the information they first submitted. The validity of the multiannual application shall, however, be conditional upon annual confirmation by the beneficiary in the form of a statement of participation.

Justification

Already under current EU legislation, the competent authority shall provide the farmers with pre-established application forms based on previous data and the farmer may only indicate the changes. Nevertheless, the farmer has to make an application every year

Amendment 22

Proposal for a regulation

Article 93 – paragraph 3

Text proposed by the Commission

Amendment

Directive 2000/60/EC of 23 October 2000 establishing a framework for Community action in the field of water policy will be considered as being part of Annex II once this Directive is implemented by all Member States and the obligations directly applicable to farmers have been identified. In order to take account of those elements the Commission shall be empowered to adopt delegated acts in accordance with Article 111 for the purpose of amending the Annex II within 12 months starting at the moment the last Member State has notified the

deleted

implementation of the Directive to the Commission.

Justification

It is of critical importance to ensure an effective water management throughout the EU. However, instead of conferring delegated power to the Commission, the inclusion of the Water Framework Directive (2000/60/EC) in the scope of cross-compliance shall be done through the ordinary legislative procedure, once it has been implemented by the Member States.

Amendment 23

**Proposal for a regulation
Article 93 – paragraph 4**

Text proposed by the Commission

Amendment

<i>Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides will be considered as being part of Annex II once this Directive is implemented by all Member States and the obligations directly applicable to farmers have been identified. In order to take account of those elements the Commission shall be empowered to adopt delegated acts in accordance with Article 111 for the purpose of amending the Annex II within 12 months starting at the moment the last Member State has notified the implementation of the Directive to the Commission, including the obligations relating to integrated pest management.</i>	<i>deleted</i>
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PROCEDURE

Title	Financing, management and monitoring of the CAP
References	COM(2011)0628 – C7-0341/2011 – 2011/0288(COD)
Committee responsible Date announced in plenary	AGRI 25.10.2011
Opinion by Date announced in plenary	BUDG 25.10.2011
Rapporteur Date appointed	Georgios Papastamkos 6.2.2012
Date adopted	10.10.2012
Result of final vote	+: 28 -: 2 0: 1
Members present for the final vote	Marta Andreasen, Richard Ashworth, Francesca Balzani, Zuzana Brzobohatá, Göran Färm, José Manuel Fernandes, Eider Gardiazábal Rubial, Salvador Garriga Polledo, Jens Geier, Ivars Godmanis, Ingeborg Gräble, Lucas Hartong, Jutta Haug, Monika Hohlmeier, Sidonia Elżbieta Jędrzejewska, Ivailo Kalfin, Sergej Kozlík, Jan Kozłowski, Alain Lamassoure, Giovanni La Via, George Lyon, Barbara Matera, Juan Andrés Naranjo Escobar, Nadezhda Neynsky, Dominique Riquet, Helga Trüpel, Angelika Werthmann
Substitute(s) present for the final vote	Maria Da Graça Carvalho, Georgios Papastamkos, Nils Torvalds, Catherine Trautmann

21.9.2012

OPINION OF THE COMMITTEE ON BUDGETARY CONTROL

for the Committee on Agriculture and Rural Development

on the proposal for a regulation of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy (COM(2011)0628 – C7-0341/2011 – 2011/0288(COD))

Rapporteur: Iliana Ivanova

AMENDMENTS

The Committee on Budgetary Control calls on the Committee on Agriculture and Rural Development, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Cutting red tape is one of the key objectives and main requirements of the CAP reform. By introducing realistic tolerance thresholds and de minimis limitations and striking a balance between trust and scrutiny, the future administrative burden on Member States

and beneficiaries must be kept to a reasonable level.

Amendment 2

Proposal for a regulation Recital 3

Text proposed by the Commission

(3) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt delegated acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the accreditation of the paying agencies and coordinating bodies, the content of the Farm Advisory System, the measures to be financed by Union budget under public intervention and the valuation of the operations in connection with public intervention, the reductions and suspension of the reimbursements to the Member States, the compensation between expenditure and revenues under the Funds, the recovery of debts, the penalties applied to beneficiaries in case of non-compliance with the eligibility conditions, in respect of rules on securities, on the functioning of the integrated administration and control system, of the measures excluded from the scrutiny of transactions, the penalties applied under cross compliance, the rules on maintenance of permanent grassland, the rules on the operative event and the exchange rate to be used by the Member States not using the euro and in respect of the content of the common evaluation framework of the measures adopted under the CAP. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and

Amendment

(3) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt delegated acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the accreditation of the paying agencies and coordinating bodies, the content of the Farm Advisory System, the measures to be financed by Union budget under public intervention and the valuation of the operations in connection with public intervention, the reductions and suspension of the reimbursements to the Member States, the compensation between expenditure and revenues under the Funds, the recovery of debts, the penalties applied to beneficiaries in case of non-compliance with the eligibility conditions, in respect of rules on securities, on the functioning of the integrated administration and control system, of the measures excluded from the scrutiny of transactions, the penalties applied under cross compliance, the rules on maintenance of permanent grassland, the rules on the operative event and the exchange rate to be used by the Member States not using the euro and in respect of the content of the common evaluation framework of the measures adopted under the CAP. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and

Council.

Council. *The Court of Auditors may provide an opinion on these delegated acts on request of either the European Parliament or the Council under Article 287(4) of the Treaty on the functioning of the European Union.*

Justification

This will enable Parliament and Council to form their respective views on the basis of the technical expertise provided by the Court of Auditors.

Amendment 3

Proposal for a regulation

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The increasing demands made on certification bodies and paying agencies must not go hand in hand with a further increase in red tape in the Member States and, above all, those demands should be in line with international auditing standards. As regards the scope and content of the certification process, a balanced cost-benefit ratio must be maintained and additional reporting requirements must bring a clear added value.

Amendment 4

Proposal for a regulation

Recital 68

Text proposed by the Commission

Amendment

(68) Each measure under the CAP should be subject to monitoring and evaluation in order to improve its quality and demonstrate its achievements. In this context a list of indicators should be

(68) Each measure under the CAP should be subject to monitoring and evaluation in order to improve its quality and demonstrate its achievements. In this context a list of indicators *with baseline*

determined and the impact of the CAP policy assessed by the Commission in relation to policy objectives. The Commission should set up a framework for a common monitoring and evaluation ensuring among others that relevant data, including information from Member States is available on a timely manner. In so doing it should take into account the data needs and synergies between potential data sources. Moreover, the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Budget for Europe 2020 - Part II stated that the climate related expenditure in the overall Union budget should increase to at least 20%, with contribution from different policies. The Commission should therefore be able to assess the impact of the Union's support in the framework of the CAP to climate objectives.

and target levels should be determined and the impact of the CAP policy assessed by the Commission in relation to policy objectives. The Commission should set up a framework for a common monitoring and evaluation ensuring among others that relevant data, including information from Member States is available on a timely manner. In so doing it should take into account the data needs and synergies between potential data sources *and draw as far as possible on existing data sources. In addition, the monitoring and evaluation framework must take account of and properly reflect the structure of the CAP. Proper account should be taken of this.* Moreover, the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Budget for Europe 2020 - Part II stated that the climate related expenditure in the overall Union budget should increase to at least 20%, with contribution from different policies. The Commission should therefore be able to assess the impact of the Union's support in the framework of the CAP to climate objectives.

Justification

In order to assess the results baseline and target levels of the indicators are needed

Amendment 5

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The Commission shall, on a risk basis, review the documentary evidence provided by the Member States and assess the functioning of the systems in order to confirm that management and control bodies satisfy the conditions for national

accreditation.

Justification

In order to mitigate the risk of leaving the detection of any failure to subsequent checks, which may lead to more frequent checks and financial corrections, the Commission, as the final responsible for the implementation of the budget, shall have a supervisory role in the accreditation process. Due to the difficulties as regards financial corrections - taxpayers pay twice and a too extensive use of flat-rate corrections - it is of utmost importance to ensure a proper preventive control system. Such a system cannot be effective without the Commission having a supervisory role of the national accreditation process.

Amendment 6

Proposal for a regulation

Article 7 – paragraph 3 – point c

Text proposed by the Commission

(c) a summary of the results of all available audits and checks carried out, including an analysis of systematic ***or*** recurrent weaknesses as well as corrective actions taken or planned.

Amendment

(c) a summary of:

(i) the results of all available audits and checks carried out, including an analysis of systematic **and** recurrent weaknesses as well as corrective actions taken or planned,

(ii) the control statistics reported in accordance with Article 102(1)(c)(v), and

(iii) other checks considered relevant.

Justification

Alignment to the Financial regulation

Amendment 7

Proposal for a regulation

Article 7 – paragraph 5

Text proposed by the Commission

5. Where an accredited paying agency does

Amendment

5. Where an accredited paying agency does

not meet or no longer meets one or more of the accreditation criteria referred to in paragraph 2, the Member State shall withdraw its accreditation unless the paying agency makes the necessary changes within a period to be determined according to the severity of the problem.

not meet or no longer meets one or more of the accreditation criteria referred to in paragraph 2, the Member State, ***on its own initiative or at the request of the Commission***, shall withdraw its accreditation unless the paying agency makes the necessary changes within a period to be determined according to the severity of the problem.

Amendment 8

Proposal for a regulation

Article 8 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) rules on the scope and work underlying the management declaration of the paying agencies;

Justification

The Commission should clearly define by means of Delegated acts the scope and work underlying the declarations of the paying agencies;

Amendment 9

Proposal for a regulation

Article 9 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

The certification body shall be a public or private audit body designated by the Member State which shall provide an opinion on the management declaration of assurance covering the completeness, accuracy and veracity of the annual accounts of the paying agency, the proper functioning of ***its internal control system***, the legality and regularity of the underlying transactions, as well as the respect of the

The certification body shall be a public or private audit body designated by the Member State which shall provide an opinion, ***drawn up in accordance with internationally accepted audit standards, following random and risk-based controls and taking into account the past performance of the Member State***, on the management declaration of assurance covering the completeness, accuracy and

principle of sound financial management.

veracity of the annual accounts of the paying agency, the proper functioning of *the* control *systems*, the legality and regularity of the underlying transactions, as well as the respect of the principle of sound financial management. *This opinion shall state, inter alia, whether the examination puts in doubt the assertions made in the management declaration of assurance referred to in Article 7(3)(b).*

Amendment 10

Proposal for a regulation

Article 9 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The opinions of the certification bodies shall be made public in an appropriate way.

Amendment 11

Proposal for a regulation

Article 12 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) the sustainable development of the economical activity of the small farms as defined by the Member States and at least of the farms participating in the small farmers scheme referred to in Title V of Regulation (EU) No xxx/xxx[DP].

deleted

Amendment 12

Proposal for a regulation

Article 12 – paragraph 3 – point a

Text proposed by the Commission

(a) the sustainable development of the economical activity of ***holdings other than those referred to in paragraph (2)(d)***;

Amendment

(a) the sustainable development of the economical activity of ***farms including farm modernisation, competitiveness building, sectoral integration, innovation and market orientation***;

Amendment 13

**Proposal for a regulation
Article 44**

Text proposed by the Commission

When sectoral agricultural legislation requires Member States to submit, within a specific period of time, information on the ***numbers*** of checks carried out and their outcome and the Member States overrun that period, the Commission may suspend the monthly payments referred to in Article 18 or the interim payments referred to in Article 35 for which the relevant statistical information has not been sent in time.

Amendment

Where sectoral agricultural legislation requires Member States to submit, within a specific period of time, information on the ***number*** of checks carried out ***under Article 61*** and their outcome and ***where*** the Member States overrun that period, the Commission may suspend, ***in accordance with the principle of proportionality, taking account of the extent of the delay and according to the detailed rules it has adopted on the basis of Article 48(5)***, the monthly payments referred to in Article 18 or the interim payments referred to in Article 35 for which the relevant statistical information has not been sent in time, ***provided that the Commission has made all the information, forms and explanations they need to compile the relevant statistics available to the Member States in good time prior to the start of the reference period.***

Justification

The Commission must make the requisite forms and explanations available to the Member States in good time prior to the start of the reference period.

Amendment 14

Proposal for a regulation

Article 49 – paragraph 1 – subparagraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) whether a paying agency complies with the accreditation criteria laid down in Article 7(2) and whether the Member State correctly applies the provisions of Article 7(5);

Justification

The Commission may organise on the spot checks in Member States and will verify whether the paying agencies comply with the accreditation criteria. In case where an accredited agency does no longer meets one or more of the accreditation criteria the Member State shall withdraw its accreditation.

Amendment 15

Proposal for a regulation

Article 49 – paragraph 1 – subparagraph 1 – point c b (new)

Text proposed by the Commission

Amendment

(cb) the work which the certification bodies are required to carry out under Article 9;

Justification

The Commission may organise on the spot visits where it should verify the work which the certification bodies are required to carry out under Art. 9

Amendment 16

Proposal for a regulation

Article 49 – paragraph 1 – subparagraph 1 – point c c (new)

Text proposed by the Commission

Amendment

(cc) compliance with the obligations laid down in Article 56(1)

Justification

The Commission shall verify whether the Member State requested recovery from the beneficiary for any undue payment following the occurrence of irregularity or negligence.

Amendment 17

Proposal for a regulation

Article 49 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The Commission shall give sufficient prior notice of an on-the-spot check to the Member State concerned or the Member State within whose territory the check is to take place. Agents from the Member State concerned may take part in such checks.

Amendment

The Commission shall give sufficient prior notice of an on-the-spot check to the Member State concerned or the Member State within whose territory the check is to take place ***and shall coordinate checks***. Agents from the Member State concerned may take part in such checks. ***The Commission establishes a help desk for local and regional authorities to solve their complaints about red tape of on the spot checks vis-à-vis farmers.***

Amendment 18

Proposal for a regulation

Article 54 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Commission shall base its financial corrections on individual cases of irregularity identified, or by taking account of the systemic nature of the irregularity to determine whether an extrapolated or flat rate correction should be applied.

Flat rate corrections shall only be applied where it is impossible, due to the nature of the case, to either identify the extent and amount of the irregularity found or to extrapolate the amount to be corrected.

Amendment 19

Proposal for a regulation

Article 54 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Before the adoption of any decision to refuse financing, the findings from the Commission's inspection and the Member State's replies shall be notified in writing, following which the two parties shall attempt to reach agreement on the action to be taken.

Amendment

Before the adoption of any decision to refuse financing, the findings from the Commission's inspection and the Member State's replies shall be notified in writing, following which the two parties shall attempt to reach agreement on the action to be taken. ***In this context the Member States shall be given the opportunity to demonstrate, through an examination of the documentation concerned, that the actual extent of irregularity is less than the Commission's assessment.***

Justification

The system proposed for financial corrections should be aligned with the other programs of shared management such as ERDF, ESF and CF.

Amendment 20

Proposal for a regulation

Article 54 – paragraph 3 – subparagraph 2

Text proposed by the Commission

If agreement is not reached, the Member State may request opening of a procedure aimed at reconciling each party's position within four months. A report of the outcome of the procedure shall be given to the Commission, which shall ***examine*** it before deciding on any refusal of financing.

Amendment

If agreement is not reached, the Member State may request ***the*** opening of a procedure aimed at reconciling each party's position within four months. A report of the outcome of the procedure shall be given to the Commission, which shall ***take*** it ***into account*** before deciding on any refusal of financing.

Justification

Alignment to the Financial regulation

Amendment 21

Proposal for a regulation
Article 54 – paragraph 5 – point b

Text proposed by the Commission

(b) national aids ***or infringements*** for which the procedure laid down in Article 108 or Article 258 of the Treaty ***respectively has begun***;

Amendment

(b) national aids for which the procedure laid down in Article 108(2) ***of the Treaty has been initiated by the Commission*** or ***infringements for which the Commission has notified by a letter of formal notice to the Member State in accordance with*** Article 258 of the Treaty;

Justification

Alignment to the Financial Regulation

Amendment 22

Proposal for a regulation
Article 56 – paragraph 1

Text proposed by the Commission

1. For any undue payment following the occurrence of irregularity or negligence, Member States shall request recovery from the beneficiary within one year of the first indication that such an ***irregular*** has taken place and shall record the corresponding amounts in the debtors' ledger of the paying agency.

Amendment

1. For any undue payment following the occurrence of irregularity or negligence, Member States shall request recovery from the beneficiary within one year of the first indication that such an ***irregularity*** has taken place and shall record the corresponding amounts in the debtors' ledger of the paying agency. ***The Commission shall take all necessary measures to ensure that all debts are registered.***

Justification

The Commission is finally responsible for the implementation of the budget and it is also the Commission which has to ensure that the amounts included in "its" accounts disclosed all transactions and are correct.

Amendment 23

Proposal for a regulation
Article 56 – paragraph 3 – subparagraph 1 – point a

Text proposed by the Commission

(a) if the costs already and likely to be incurred total more than the amount to be recovered, **or**

Amendment

(a) if the costs already and likely to be incurred total more than the amount to be recovered; ***therefore in cooperation with the respective Member States the Commission develops a minimis limit adapted to the situation of the respective Member States.***

Justification

The recovery of very small amounts generates substantial administrative costs. Amounts which fall below a ceiling set very low should therefore not be recovered, in order to maintain cost-effectiveness.

Amendment 24

**Proposal for a regulation
Article 59**

Text proposed by the Commission

In order to ensure correct and efficient application of the provisions relating to recovery set out in this Section, the Commission shall be empowered to adopt delegated act in accordance with Article 111 concerning specific obligations to be complied with by the Member States.

Amendment

In order to ensure correct and efficient application of the provisions relating to ***the conditions and procedures for the recovery of debts and default interest thereon*** set out in this Section, the Commission shall be empowered to adopt delegated act in accordance with Article 111 concerning specific obligations to be complied with by the Member States.

Amendment 25

**Proposal for a regulation
Article 60 – paragraph 1 – point b**

Text proposed by the Commission

(b) ***offer*** effective prevention against fraud, especially as regards the areas with a higher level of risk, and which shall act as a deterrent, having regard to the costs and benefits as well as the proportionality of

Amendment

(b) ***ensure*** effective prevention against fraud, especially as regards the areas with a higher level of risk, and which shall act as a deterrent, having regard to the costs and benefits as well as the proportionality of

the measures;

the measures;

Justification

The original wording seems to weak and should therefore be strengthened.

Amendment 26

Proposal for a regulation Article 61 – paragraph 1

Text proposed by the Commission

1. The system set up by the Member States in accordance with Article 60(2) shall include, except where otherwise provided, systematic administrative checking of **all** aid applications and shall be supplemented by on-the-spot checks.

Amendment

1. The system set up by the Member States in accordance with Article 60(2) shall include, except where otherwise provided, systematic administrative checking of aid applications and ***payment claims by applying a risk-based approach according to the level of assurance that is required and*** shall be supplemented by on-the-spot checks ***whose purpose shall be to monitor the level of inherent risk and whose number shall be adjusted in the light of the inherent and control risks.***

Amendment 27

Proposal for a regulation Article 61 – paragraph 2

Text proposed by the Commission

2. As regards the on-the-spot checks, the authority responsible shall draw its check sample from the entire population of applicants comprising, where appropriate, a random part and a risk-based part in order to obtain a representative error rate, while targeting also highest **errors**.

Amendment

2. As regards the on-the-spot checks, the authority responsible shall draw its check sample from the entire population of applicants comprising, where appropriate, a random part and a risk-based part in order to obtain a representative error rate, while targeting also ***the areas in which the risk of error is*** highest.

To ensure that the checks are proportional, account needs to be taken of factors including:

– the size of the sums involved;

- *the outcome of earlier audits of the management and control systems;*
- *voluntary participation in management schemes certified on the basis of recognised international standards.*

Amendment 28

Proposal for a regulation

Article 64 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) the rules on the minimum level of on-the-spot checks necessary for an effective management of the risks, as well as the conditions under which Member States have to increase such checks, or may reduce them where the management and control systems function properly and the error rates are at an acceptable level;

Amendment

(b) the rules on the minimum level of on-the-spot checks necessary for an effective management of the risks, as well as the conditions under which Member States have to increase such checks, or may reduce them where the management and control systems function properly and the error rates are at an acceptable level. ***The European Court of Auditors may assess the Commission's criteria for justifying a reduction of these checks;***

Justification

The expertise of the Court could be useful for the legislator and will clarify the Commission's criteria for the reduction of the checks.

Amendment 29

Proposal for a regulation

Article 65 – paragraph 3

Text proposed by the Commission

(3) The amounts concerned by the withdrawal referred to in paragraph 1 and by the penalties referred to in paragraph 2 shall be recovered in full.

Amendment

(3) The amounts concerned by the withdrawal referred to in paragraph 1 and by the penalties referred to in paragraph 2 shall be recovered in full, ***without prejudice to Article 56(3).***

Justification

The recovery of very small amounts generates substantial administrative costs. Amounts which fall below a ceiling set very low should therefore not be recovered, in order to maintain cost-effectiveness.

Amendment 30

Proposal for a regulation Article 92 – paragraph 2

Text proposed by the Commission

Amendment

However, Article 91 shall not apply to beneficiaries participating in the small farmers scheme referred to in Title V of Regulation (EU) No xxx/xxx[DP] and to the beneficiaries receiving aid under Article 29(9) of Regulation (EU) No RD/xxx.

deleted

Justification

The small farmers should not be exempted from cross compliance obligations.

Amendment 31

Proposal for a regulation Article 94

Text proposed by the Commission

Amendment

Member States shall ensure that all agricultural area, including land which is no longer used for production purposes, is maintained in good agricultural and environmental condition. Member States shall define, at national or regional level, minimum standards for beneficiaries for good agricultural and environmental condition of land, on the basis of Annex II, taking into account the specific characteristics of the areas concerned, including soil and climatic condition, existing farming systems, land use, crop rotation, farming practices, and farm structures. Member States shall not define

Member States shall ensure that all agricultural area, including land which is no longer used for production purposes, is maintained in good agricultural and environmental condition. Member States shall define, at national or regional level, minimum standards for beneficiaries for good agricultural and environmental condition of land, ***requiring concrete and regular activities, or abstention from certain activities***, on the basis of Annex II, taking into account the specific characteristics of the areas concerned, including soil and climatic condition, existing farming systems, land use, crop

minimum requirements which are not established in Annex II.

rotation, farming practices, and farm structures. Member States shall not define minimum requirements which are not established in Annex II.

Justification

In order to ensure that EU aid is actually paid for an activity, the minimum requirements for GAEC should require concrete and regular activities.

Amendment 32

Proposal for a regulation

Article 99 – paragraph 1 – subparagraph 2

Text proposed by the Commission

For the calculation of those reductions and exclusions account shall be taken of the severity, extent, permanence and reoccurrence of the non-compliance found as well as of the criteria set out in paragraphs 2, 3 and 4.

Amendment

For the calculation of those reductions and exclusions account shall be taken of the severity, ***consequences***, extent, permanence and reoccurrence of the non-compliance found as well as of the criteria set out in paragraphs 2, 3 and 4. ***As a general principle, the penalty will be proportional to or dependent on the seriousness and the consequences of the breach of cross compliance obligations.***

Justification

The amendment brings the Regulation in line with the Treaty provisions which provide that environmental damage should as a priority be rectified at source and the polluter should pay. Therefore the penalties made under the cross compliance should be calculated as a proportion of the impact on the environment.

Amendment 33

Proposal for a regulation

Article 99 – paragraph 2 – subparagraph 1

Text proposed by the Commission

In the case of non compliance due to negligence, the percentage of reduction shall ***not exceed 5 %*** and, in the case of repeated non-compliance, ***15 %***.

Amendment

In the case of non compliance due to negligence, the percentage of reduction shall ***be at least 1%*** and ***up to 5%*** in the case of repeated non-compliance, ***at least***

10%.

Justification

The objective of this modification is to ensure the effectiveness of this policy instrument and to encourage beneficiaries not to be negligent.

Amendment 34

**Proposal for a regulation
Article 99 – paragraph 3**

Text proposed by the Commission

3. In the case of intentional non-compliance, the percentage of reduction shall in principle not be less than **20** % and may go as far as total exclusion from one or several aid schemes and apply for one or more calendar years.

Amendment

3. In the case of intentional non-compliance, the percentage of reduction shall in principle not be less than **25** % and may go as far as total exclusion from one or several aid schemes and apply for one or more calendar years.

Justification

The objective of this modification is to encourage beneficiaries to take all measures to combat intentional non-compliance.

Amendment 35

**Proposal for a regulation
Article 110 – paragraph 1 – subparagraph 1**

Text proposed by the Commission

A common monitoring and evaluation framework shall be established with a view to measuring the performance of the common agricultural policy. It shall include all instruments related to the monitoring and evaluation of common agricultural policy measures and in particular of the direct payments provided for in Regulation (EU) No DP/xxx, the market measures provided for in Regulation (EU) No CMO/xxx, the rural development measures provided for in

Amendment

A common monitoring and evaluation framework shall be established with a view to measuring the performance of the common agricultural policy. It shall include all instruments related to the monitoring and evaluation of common agricultural policy measures and in particular of the direct payments provided for in Regulation (EU) No DP/xxx, the market measures provided for in Regulation (EU) No CMO/xxx, the rural development measures provided for in

Regulation (EU) No RD/xxx and of the application of the cross compliance provided for in this Regulation.

Regulation (EU) No RD/xxx and of the application of the cross compliance provided for in this Regulation. ***In this process the Commission shall exploit synergies and rely as far as possible on already available data and data sources.***

Justification

Monitoring and evaluation must not increase still further the existing burden of red tape for Member States and beneficiaries. The Commission should therefore rely on existing data sources and seek to achieve synergies.

Amendment 36

Proposal for a regulation

Article 110 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The Commission shall define, by means of implementing acts, the set of indicators specific to the objectives referred to in the first subparagraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

Amendment

The Commission shall define, by means of implementing acts, the set of indicators ***and target levels*** specific to the objectives referred to in the first subparagraph ***and require Member States to identify baseline and target levels for these indicators.*** Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

Justification

The Commission should set target levels of the indicators in order to assess the achievement of objectives.

Amendment 37

Proposal for a regulation

Article 110 – paragraph 3 – subparagraph 3

Text proposed by the Commission

The Commission shall adopt, by means of implementing acts, rules on the information to be sent by the Member States, as well as on the data needs and

Amendment

The Commission shall adopt, by means of implementing acts, rules on the information to be sent by the Member States, as well as on the data needs and

synergies between potential data sources.
Those implementing acts shall be adopted
in accordance with the examination
procedure referred to in Article 112(3).

synergies between potential data sources.
***These implementing acts must not lead to
any further increase in the administrative
burden on Member States and the
beneficiaries.*** Those implementing acts
shall be adopted in accordance with the
examination procedure referred to in
Article 112(3).

PROCEDURE

Title	Financing, management and monitoring of the CAP
References	COM(2011)0628 – C7-0341/2011 – 2011/0288(COD)
Committee responsible Date announced in plenary	AGRI 25.10.2011
Opinion by Date announced in plenary	CONT 25.10.2011
Rapporteur Date appointed	Iliana Ivanova 24.11.2011
Date adopted	17.9.2012
Result of final vote	+: 20 -: 2 0: 0
Members present for the final vote	Marta Andreasen, Jean-Pierre Audy, Zigmantas Balčytis, Zuzana Brzobohatá, Andrea Češková, Tamás Deutsch, Martin Ehrenhauser, Jens Geier, Gerben-Jan Gerbrandy, Iliana Ivanova, Monica Luisa Macovei, Jan Mulder, Crescenzo Rivellini, Paul Rübig, Theodoros Skylakakis, Bart Staes, Michael Theurer
Substitute(s) present for the final vote	Christofer Fjellner, Edit Herczog, Ivailo Kalfin, Marian-Jean Marinescu, Derek Vaughan

17.10.2012

OPINION OF THE COMMITTEE ON REGIONAL DEVELOPMENT

for the Committee on Agriculture and Rural Development

on the proposal for a regulation of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy
(COM(2011)0628 – C7-0341/2011 – 2011/0288(COD))

Rapporteur: Giommara Uggias

SHORT JUSTIFICATION

The proposal for a regulation on the financing, management and monitoring of the CAP brings together, in a single basic text, all the provisions and requirements designed to ensure that the common agricultural policy is implemented in a uniform manner, in order to pursue the Europe 2020 strategy effectively.

The proposal for a regulation is and, by its very nature and purpose, must be as rational as possible; it must define every single issue that arises under the common agricultural policy and is worthy of being governed and every relevant uniform action and/or activity throughout the Union.

For that reason, especially if regarded from a regional development viewpoint, the proposal does not really lend itself to amendments and/or additional provisions that might undermine its mission and its outcome.

Our committee has therefore opted to focus more on those at whom the common agricultural policy is chiefly targeted – farmers and rural communities – and to take an approach that centres on the specific needs stemming from specific local and territorial features.

In particular our committee has attempted to streamline the institutional aspect of the CAP and to reduce or eliminate improper burdens on farmers. Even though the regulation stipulates that paying agencies are responsible for their inefficiencies, and to what extent they are responsible, this does not automatically mean that the burden on the beneficiaries is lightened. Indeed, at times of economic hardship and of great volatility in the agricultural markets, delayed payments can be an improper burden on farms, which could see their negotiating power and assets weakened by factors that are unrelated to their own ability to manage their business.

Our committee has also attempted to gear the implementing criteria for the farm advisory system towards those undertakings and farmers who need rational and competent guidance on farm management more than others. The aim of this is to steer the farming sector towards a sensible, rather than compulsory, rationalisation, especially in rural regions in which people still live and where agriculture still represents a heritage of culture, vitality and wealth that is not necessarily financial.

At the same time, our committee has sought to encourage benefits that are shared by the community, to the detriment of certain non-compliant or fraudulent behaviour by individuals which has often caused crises and which nullifies, once and for all, the efforts made by the local area and authorities.

Lastly, our committee has attempted to gear the monitoring objectives once again towards economic indicators, which complement and testify more effectively to the achievements of the common agricultural policy, in order to provide as realistic a picture as possible of the effects of the implementation of the EU agricultural policy. We therefore considered it advisable for additional variables to be monitored, such as: market access, training processes and price stability, the spread of the contract farming economy; the rate of dissemination, production and use of renewable energy in the farming sector and in rural communities; balanced territorial development, at least on a regional basis; social mobility, population dynamics, depopulation, income (not necessarily from the farming sector) and poverty in rural areas.

AMENDMENTS

The Committee on Regional Development calls on the Committee on Agriculture and Rural Development, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposed Regulation Recital 10

Text proposed by the Commission

(10) In order to help beneficiaries to become more aware of the relationship between agricultural practices and management of farms on the one hand, and standards relating to the environment, climate change, good agricultural condition of land, food safety, public health, animal health, plant health and animal welfare on

Amendment

(10) In order to help beneficiaries to become more aware of the relationship between ***specific, compatible and preferable*** agricultural practices ***in the reference area*** and management of farms on the one hand, and standards relating to the environment, climate change, good agricultural condition of land, food safety,

the other, it is necessary that Member States establish a comprehensive farm advisory system offering advice to beneficiaries. That farm advisory system should in any way not affect the obligation and responsibility of beneficiaries to respect those standards. Also a clear separation between advice and checks should be ensured by the Member States.

public health, animal health, plant health and animal welfare on the other, it is necessary that Member States establish a comprehensive farm advisory system offering advice to beneficiaries. That farm advisory system should in any way not affect the obligation and responsibility of beneficiaries to respect those standards. Also, ***Member States should encourage beneficiaries to use the advisory system and should ensure*** a clear separation between advice and checks.

Amendment 2

Proposed Regulation Recital 12

Text proposed by the Commission

(12) Entry into the farm advisory system should be on a voluntary basis for beneficiaries. All beneficiaries, even if not receiving support under the CAP, should be allowed to participate in the system. However priority criteria may be set by the Member States. Due to the nature of the system, it is appropriate for the information obtained in the course of the advisory activity to be treated as confidential, except in case of serious infringements of Union or national law. In order to ensure the efficiency of the system, advisors should be suitably qualified and regularly trained.

Amendment

(12) ***Although*** entry into the farm advisory system should be on a voluntary basis for beneficiaries, ***intense promotion of the system should serve to make beneficiaries aware of all the benefits that become available to them when they use that system.*** All beneficiaries, even if not receiving support under the CAP, should be allowed to participate in the system. However priority criteria may be set by the Member States, ***in particular for those farmers who might otherwise remain excluded and who need competent guidance more than others, especially in areas where farmland is parcelled out into micro-plots.*** Due to the nature of the system, it is appropriate for the information obtained in the course of the advisory activity to be treated as confidential, except in case of serious infringements of Union or national law. In order to ensure the efficiency of the system, advisors should be suitably qualified and regularly trained.

Amendment 3

Proposal for a regulation Recital 13

Text proposed by the Commission

(13) The financial resources required to cover the expenditure effected by the accredited paying agencies in respect of the EAGF, are to be made available to the Member States by the Commission in the form of reimbursements against the booking of the expenditure effected by those agencies. Until such reimbursements, in the form of monthly payments, have been paid, financial resources are to be mobilised by the Member States in accordance with the needs of their accredited paying agencies. **The** personnel costs and the administrative costs of the Member States and the beneficiaries involved in the execution of the CAP should be borne by themselves.

Amendment

(13) The financial resources required to cover the expenditure effected by the accredited paying agencies in respect of the EAGF, are to be made available to the Member States by the Commission in the form of reimbursements against the booking of the expenditure effected by those agencies. Until such reimbursements, in the form of monthly payments, have been paid, financial resources are to be mobilised by the Member States in accordance with the needs of their accredited paying agencies. ***In order to improve the operational efficiency of the paying agencies, the*** personnel costs and the administrative costs of the Member States and the beneficiaries involved in the execution of the CAP should be borne by ***the agencies*** themselves.

Amendment 4

Proposal for a regulation Recital 14

Text proposed by the Commission

(14) The use of the agro-meteorological system and the acquisition and improvement of satellite images should provide the Commission with the means to manage the agricultural markets **and** to facilitate the monitoring of agricultural expenditure.

Amendment

(14) The use of the agro-meteorological system and the acquisition and improvement of satellite images should provide the Commission with the means to manage the agricultural markets, to facilitate the monitoring of agricultural expenditure ***and to assess and provide timely aid in the case of natural disasters.***

Amendment 5

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) The rural development programmes are financed from the Union budget on the basis of commitments in annual instalments. Member States should be able to draw on the Union funds provided for as soon as they begin the programmes. A suitably restricted prefinancing system ensuring a steady flow of funds so that payments to beneficiaries under the programmes are made at the appropriate time *is* therefore *needed*.

Amendment

(23) The rural development programmes are financed from the Union budget on the basis of commitments in annual instalments. Member States should be able to draw on the Union funds provided for as soon as they begin the programmes. A suitably restricted prefinancing system ensuring a steady flow of funds so that payments to beneficiaries under the programmes are made at the appropriate time *should* therefore *be prioritised*.

Amendment 6

Proposed Regulation

Recital 25

Text proposed by the Commission

(25) Union aid should be paid to beneficiaries in good time so that they may use it efficiently. A failure by the Member States to comply with the payment deadlines laid down in Union legislation could create serious difficulties for the beneficiaries and could jeopardise the Union's yearly budgeting. Therefore, expenditure made without respecting deadlines for payments should be excluded from Union financing. In order to respect the principle of proportionality, the Commission should be able to provide for exceptions to this general rule. This principle, laid down in Regulation (EC) No 1290/2005 should be maintained and apply to both the EAGF and the EAFRD. If Member States pay late, they should add interests on the principal amount at their own cost to compensate the beneficiaries. Such a provision could create an incentive to Member States to better respect payment deadlines, and could give more assurance

Amendment

(25) Union aid should be paid to beneficiaries in good time so that they may use it efficiently. A failure by the Member States to comply with the payment deadlines laid down in Union legislation could create serious difficulties for the beneficiaries and could jeopardise the Union's yearly budgeting. Therefore, expenditure made without respecting deadlines for payments should be excluded from Union financing. In order to respect the principle of proportionality, the Commission should be able to provide for exceptions to this general rule. This principle, laid down in Regulation (EC) No 1290/2005 should be maintained and apply to both the EAGF and the EAFRD. If Member States pay late, they should add interests on the principal amount at their own cost to compensate the beneficiaries *and the relevant temporary credits should appear on the beneficiaries' balance sheets*. Such a provision could create an

to beneficiaries to be paid in time, or at least to be compensated in case of late payment.

incentive to Member States to better respect payment deadlines, and could give more assurance to beneficiaries to be paid in time, or at least to be compensated in case of late payment.

Justification

The time-frame for payments to beneficiaries is paramount, whether it be to farms or to other undertakings or service providers. That is why, in order to protect the local economy, payments due must be able to be entered in the undertaking's accounts given that they involve a more than reasonable degree of certainty.

Amendment 7

Proposal for a regulation

Recital 37

Text proposed by the Commission

(37) In order to protect the financial interests of the Union budget, measures should be taken by Member States to satisfy themselves that transactions financed by the EAGF and the EAFRD are actually carried out and are executed correctly. Member States should also prevent, detect and deal effectively with any irregularities or non-compliance with obligations committed by beneficiaries. To this end, Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests should apply.

Amendment

(37) In order to protect the financial interests of the Union budget, ***proportionate*** measures should be taken by Member States to satisfy themselves that transactions financed by the EAGF and the EAFRD are actually carried out and are executed correctly. Member States should also prevent, detect and deal effectively with any irregularities or non-compliance with obligations committed by beneficiaries. To this end, Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests should apply.

Amendment 8

Proposal for a regulation

Recital 38

Text proposed by the Commission

(38) Provisions relating to general principles on checks, withdrawals,

Amendment

(38) Provisions relating to general principles on checks, withdrawals,

reductions or exclusions from payments and to the imposition of penalties are contained in various sectoral agricultural regulations. Those rules should be gathered in the same legal framework at a horizontal level. They should cover the obligations of the Member States as regards administrative and on-the-spot checks, the rules on the recovery, reduction and exclusions of aid. Rules on checks of obligations not necessarily linked to the payment of an aid should be laid down as well.

reductions or exclusions from payments and to the imposition of penalties are contained in various sectoral agricultural regulations. Those rules should be gathered ***and simplified*** in the same legal framework at a horizontal level. They should cover the obligations of the Member States as regards administrative and on-the-spot checks, the rules on the recovery, reduction and exclusions of aid. Rules on checks of obligations not necessarily linked to the payment of an aid should be laid down as well. ***Where error rates are at an acceptable level, Member States should reduce on-the-spot checks proportionately.***

Amendment 9

Proposal for a regulation Recital 41

Text proposed by the Commission

(41) The main elements of that integrated system and, in particular, the provisions concerning a computerised database, an identification system for agricultural parcels, aid applications or payment claims and a system for the identification and recording of payment entitlements should be maintained.

Amendment

(41) The main elements of that integrated system and, in particular, the provisions concerning a computerised database, an identification system for agricultural parcels, aid applications or payment claims and a system for the identification and recording of payment entitlements should be maintained, ***at an appropriate level, while taking due account of the need not to impose undue administrative burdens on farmers and administrative bodies.***

Amendment 10

Proposal for a regulation Recital 44

Text proposed by the Commission

(44) Under Regulation (EC) No 485/2008, Member States are to take the measures necessary to ensure effective protection of

Amendment

(44) Under Regulation (EC) No 485/2008, Member States are to take the measures necessary to ensure effective protection of

the financial interests of the Union budget, and particularly in order to check the genuineness and compliance of operations financed by the EAGF. In the interests of clarity and rationality, the relevant provisions should be integrated into the same act. Regulation (EC) No 485/2008 should therefore be repealed.

the financial interests of the Union budget, and particularly in order to check the genuineness and compliance of operations financed by the EAGF. In the interests of *simplicity*, clarity and rationality, the relevant provisions should be integrated into the same act. Regulation (EC) No 485/2008 should therefore be repealed.

Amendment 11

Proposal for a regulation Recital 57

Text proposed by the Commission

(57) The cross compliance system implies certain administrative constraints for both beneficiaries and national administrations since record keeping must be ensured, checks must be carried out and penalties have to be applied where necessary. Those penalties should be proportionate, effective and dissuasive. Such penalties should be without prejudice to other penalties laid down under other provisions of Union or national law. For the sake of consistency, it is appropriate to merge the relevant Union provisions into one single legal instrument. For farmers participating in the small farmers scheme referred to in Title V of Regulation (EU) No xxx/xxx[DP], the efforts to be made under the cross compliance system may be considered as exceeding the benefit of keeping those farmers under that system. For reasons of simplification, those farmers should therefore be exempted from cross compliance and in particular from its control system and from the risk of cross compliance penalties. ***However, that exemption should be without prejudice to the obligation to respect the applicable provisions of the sectoral legislation and to the possibility to be checked and to be imposed penalties under that legislation.***

Amendment

(57) The cross compliance system implies certain administrative constraints for both beneficiaries and national administrations since record keeping must be ensured, checks must be carried out and penalties have to be applied where necessary. Those penalties should be proportionate, effective and dissuasive. Such penalties should be without prejudice to other penalties laid down under other provisions of Union or national law. For the sake of consistency, it is appropriate to merge the relevant Union provisions into one single legal instrument. For farmers participating in the small farmers scheme referred to in Title V of Regulation (EU) No xxx/xxx[DP], the efforts to be made under the cross compliance system may be considered as exceeding the benefit of keeping those farmers under that system. For reasons of simplification, those farmers should therefore be exempted from cross compliance and in particular from its control system and from the risk of cross compliance penalties.

Justification

Small farms are by their nature "greener" than larger undertakings. Public authorities must in every case seek to reduce the administrative burden on small farmers and the small family farm model, in light of the social and cultural benefits they contribute to rural areas.

Amendment 12

Proposal for a regulation Recital 60

Text proposed by the Commission

(60) An effective implementation of cross compliance requires verification at beneficiaries' level that obligations are respected. Where a Member State decides to make use of the option not to apply a reduction or exclusion where the amount concerned is less than EUR 100, the competent control authority should, for a sample of beneficiaries in the following year, verify that the findings of the non-compliance concerned have been remedied.

Amendment

(60) An effective implementation of cross compliance requires verification at beneficiaries' level that obligations are respected. Where a Member State decides to make use of the option not to apply a reduction or exclusion where the amount concerned is less than EUR 100, the competent control authority should, for a sample of beneficiaries in the following year, verify that the findings of the non-compliance concerned have been remedied. *Member States may also introduce an early-warning mechanism applicable to 'teething' non-compliances in order to make cross-compliance more palatable for the farming community and ensure a closer involvement of farmers in the implementation of requirement. This mechanism should take the form of a letter of warning, in response to which the beneficiary must take remedial action which shall be monitored by the Member State in the course of the following year.*

Amendment 13

Proposed Regulation Article 2 – paragraph 2 – point f a (new)

Text proposed by the Commission

Amendment

(fa) the seizure of part or all of the holding, due to funding erroneously

granted through public notices which are subsequently declared to be non-compliant with EU legislation.

Amendment 14

Proposed Regulation

Article 7 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. Paying agencies shall be dedicated departments or bodies of the Member States responsible for the management and control of expenditure referred to in Article 4(1) and Article 5.

Amendment

1. Paying agencies shall be dedicated departments or bodies of the Member States **or Regions** responsible for the management and control, ***within the limits of those organisations***, of expenditure referred to in Article 4(1) and Article 5.

Amendment 15

Proposed Regulation

Article 12 – paragraph 1

Text proposed by the Commission

1. Member States shall establish a system of advising beneficiaries on land and farm management (hereinafter referred to as the ‘farm advisory system’) operated by one or more designated bodies. The designated bodies may be public or private.

Amendment

1. ***The*** Member States **or Regions** shall establish a system of advising beneficiaries on land and farm management (hereinafter referred to as the ‘farm advisory system’) operated by one or more designated bodies. The designated bodies may be public or private, ***preferably having a connection to academic institutions or research centres.***

Justification

In keeping with CAP regionalisation, it would be inadvisable to commission a single national body, especially where the national territory has definite specific geomorphological features, soil and climatic conditions, farming systems and cultural features in relation to the size of its territory. Moreover, it might be advisable to attempt to rationalise the activity by linking it directly with academies and research institutes so that academic staff (including researchers, in their varying capacities) will be able to relate more closely to the difficulties faced by farms.

Amendment 16

Proposal for a regulation

Article 12 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) the sustainable development of the economic activities of agricultural holdings in line with all measures recommended in the rural development programmes, including farm modernisation, competitiveness building, sectoral integration, innovation and market orientation;

Amendment 17

Proposal for a regulation

Article 13 – paragraph 3

Text proposed by the Commission

Amendment

3. The ***competent*** national authority shall provide the beneficiary, ***where appropriate*** by ***the use of*** electronic means, with the appropriate list of ***designated*** bodies.

3. The national authority shall provide the ***potential*** beneficiary, ***primarily*** by electronic means, with the appropriate list of ***selected*** bodies.

Amendment 18

Proposal for a regulation

Article 14 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) Intense promotion of the farm advisory system shall make beneficiaries aware of all the benefits that become available to them when they use that system.

Amendment 19

Proposed Regulation Article 34 – paragraph 1

Text proposed by the Commission

1. Following the Commission decision approving the programme, an initial prefinancing amount for the whole programming period shall be paid by the Commission. This initial pre-financing amount shall represent **4%** of the EAFRD contribution to the programme concerned. It may be split into a maximum of three instalments depending on budget availability. The first instalment shall represent 2% of the EAFRD contribution to the programme concerned.

Amendment

1. Following the Commission decision approving the programme, an initial prefinancing amount for the whole programming period shall be paid by the Commission. This initial pre-financing amount shall represent **7%** of the EAFRD contribution to the programme concerned. It may be split into a maximum of three instalments depending on budget availability. The first instalment shall represent 3% of the EAFRD contribution to the programme concerned.

Amendment 20

Proposed Regulation Article 47 – paragraph 1 – subparagraph 2

Text proposed by the Commission

It shall supply coherent, objective and comprehensive information, both inside and outside the Union, in order to give an overall picture of that policy.

Amendment

It shall supply coherent, objective and comprehensive information, both inside and outside the Union, in order to give an overall picture of that policy; ***the information may be geared to specific targets and designed to deal with topics and issues that may even be restricted to specific geographical areas.***

Amendment 21

Proposal for a regulation Article 49 – paragraph 2 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

The Commission shall reduce the frequency of on-the-spot checks in Member States where the opinion of the

certification body as regards the legality and regularity of the underlying transactions indicates that the error rate is at an acceptable level.

Justification

On-the-spot checks carried out by the Commission should be reduced when the legality and regularity audit indicates that the error rate is at an acceptable level, it is hoped that this will reduce the costs attached to such inspections.

Amendment 22

Proposal for a regulation

Article 54 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. However, if for reasons not attributable to the Member State concerned, recovery could not take place within the time limits specified in the first subparagraph, and the amount to be recovered exceeds EUR 1 million, the Commission may, at the request of the Member State, extend the time limits by a maximum of 50% of the initial time limits.

Amendment 23

Proposal for a regulation

Article 56 – paragraph 1

Text proposed by the Commission

Amendment

1. For any undue payment following the occurrence of irregularity or negligence, Member States shall request recovery from the beneficiary *within one year of the first indication that such an irregularity has taken place* and shall record the corresponding amounts in the debtors' ledger of the paying agency.

1. For any undue payment following the occurrence of irregularity or negligence, Member States shall request recovery from the beneficiary *no later than 24 months after the competent national authority determined the amounts to be recovered on the basis of a final control report or a similar document, according to the legislation applicable* and shall record the corresponding amounts in the debtors' ledger of the paying agency

Amendment 24

Proposal for a regulation Article 60 – paragraph 2

Text proposed by the Commission

2. Member States shall set up efficient management and control systems in order to ensure compliance with the legislation governing Union support schemes.

Amendment

2. Member States shall set up efficient ***and proportionate*** management and control systems ***that are risk-based and responsive to the specific needs of the target regions*** in order to ensure compliance with the legislation governing Union support schemes. ***Each Member State shall be responsible, via the national coordinating body, for adapting the management and control system to the specific characteristics of their regions, on the basis of the notifications made by the paying agencies under Article 7(3).***

Amendment 25

Proposal for a regulation Article 61 – paragraph 2

Text proposed by the Commission

2. As regards the on-the-spot checks, the authority responsible shall draw its check sample from the entire population of applicants comprising, where appropriate, a random part and a risk-based part in order to obtain a representative error rate, while targeting also highest errors.

Amendment

2. As regards the on-the-spot checks, the authority responsible shall draw its check sample from the entire population of applicants comprising, where appropriate, a random part and a risk-based part in order to obtain a representative error rate, while targeting also highest errors. ***The number of on-the-spot checks shall be reduced proportional to risk and in order to reduce administrative burdens on both public authorities and farmers.***

Amendment 26

Proposal for a regulation Article 91 – paragraph 2 a (new)

2a. Member States may set up a warning system to allow beneficiaries in a situation of non-compliance to remedy the irregularity before any administrative penalty is imposed. Where a Member State decides to make use of this option, the competent authority shall forward an initial letter of warning to the beneficiary, notifying the finding and the obligation to take remedial action. The competent authority shall also take, in the following year, the actions necessary to verify that the beneficiary has remedied the situation of non-compliance concerned.

This warning system shall only apply in cases of first non-compliance that are not considered 'severe' and whose 'extent' is strictly limited to the farm of the beneficiary responsible for the non-compliance, in line with the criteria as defined in Article 99a.

Amendment 27

Proposed Regulation

Article 93 – paragraph 1 – introductory part

The rules on cross compliance shall be the statutory management requirements under Union legislation and the standards for good agricultural and environmental condition of land established at national level ***as*** listed in Annex II, relating to the following areas:

The rules on cross compliance shall be the statutory management requirements under Union legislation and the standards for good agricultural and environmental condition of land established at national level ***on a proposal from the regions and compatible with specific local territorial features; these rules are*** listed in Annex II, relating to the following areas:

Amendment 28

Proposed Regulation Article 94 – paragraph 1

Text proposed by the Commission

Member States shall ensure that all agricultural area, including land which is no longer used for production purposes, is maintained in good agricultural and environmental condition. Member States shall define, at national **or** regional level, minimum standards for beneficiaries for good agricultural and environmental condition of land, on the basis of Annex II, taking into account the specific characteristics of the areas concerned, including soil and climatic condition, existing farming systems, land use, crop rotation, farming practices, and farm structures. Member States shall not define minimum requirements which are not established in Annex II.

Amendment

Member States shall ensure that all agricultural area, including land which is no longer used for production purposes, is maintained in good agricultural and environmental condition. Member States shall define, at national **and, where appropriate, regional level, on the basis of assessments backed up by scientific data,** minimum standards for beneficiaries for good agricultural and environmental condition of land, on the basis of Annex II, taking into account the specific characteristics of the areas concerned, including soil and climatic condition, existing farming systems, land use **and definition and modification of the landscape, also following serious natural disasters such as floods or fires,** crop rotation, farming practices, and farm structures. Member States shall not define minimum requirements which are not established in Annex II.

Amendment 29

Proposal for a regulation Article 97 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Where a Member State decides to make use of the option provided for in the first subparagraph, the competent authority shall, for a sample of beneficiaries, take in the following year the actions necessary to verify that the beneficiary has remedied the findings of non-compliance concerned. The finding and the obligation to take remedial action shall be notified to the beneficiary.

Amendment

deleted

Justification

In my opinion a good solution proposed by the European Commission is to abolish follow-up checks in the case of minor infringements. However, as regards the solution consisting in limiting the controls falling under de minimis rule to a selected group of beneficiaries (sample), we believe that the simplification should involve a total abolition of repeated controls of infringements subject to the de minimis rule.

Amendment 30

Proposed Regulation Article 100 – paragraph 1

Text proposed by the Commission

Member States may retain 10% of the amounts resulting from the application of the reductions and exclusions referred to in Article 99.

Amendment

Member States may retain 10% of the amounts resulting from the application of the reductions and exclusions referred to in Article 99. ***The resources referred to in this paragraph shall, where appropriate, be made available to the relevant Regions and may be allocated for the building of rural infrastructure.***

Justification

Resources deriving from non-compliant behaviour of individual beneficiaries, which could jeopardise the success of the measures taken by regional communities at various levels, should be re-invested, provided that this is compatible with the requirements relating to the specific use of revenue, for the benefit of the community in question.

Amendment 31

Proposal for a regulation Article 100 – paragraph 1

Text proposed by the Commission

Member States may retain **10%** of the amounts resulting from the application of the reductions and exclusions referred to in Article 99.

Amendment

Member States may retain **25%** of the amounts resulting from the application of the reductions and exclusions referred to in Article 99.

Justification

I don't see a reason why Commission introduced this change (they decreased from 10% to

25%). *In current regulation (article 25 of regulation no 73/2009) allows Member States to keep 25% of the amount resulting from the application of the reductions.*

Amendment 32

Proposed Regulation

Article 110 – paragraph 2 – point c

Text proposed by the Commission

(c) balanced territorial development, with a focus on rural *employment*, growth and poverty in rural areas.

Amendment

(c) balanced territorial development, ***at least on a regional basis***, with a focus on rural *employment*, growth, ***social mobility, population dynamics, depopulation, income*** and poverty in rural areas.

PROCEDURE

Title	Financing, management and monitoring of the CAP						
References	COM(2011)0628 – C7-0341/2011 – 2011/0288(COD)						
Committee responsible Date announced in plenary	AGRI 25.10.2011						
Opinion by Date announced in plenary	REGI 25.10.2011						
Rapporteur Date appointed	Giommaria Uggias 23.11.2011						
Date adopted	10.10.2012						
Result of final vote	<table> <tr> <td>+: </td><td>37</td></tr> <tr> <td>–: </td><td>0</td></tr> <tr> <td>0: </td><td>2</td></tr> </table>	+:	37	–:	0	0:	2
+:	37						
–:	0						
0:	2						
Members present for the final vote	François Alfonsi, Luís Paulo Alves, Charalampos Angourakis, Jean-Jacob Bicep, Victor Boştinaru, John Bufton, Alain Cadec, Salvatore Caronna, Nikos Chrysogelos, Francesco De Angelis, Danuta Maria Hübner, Filiz Hakaeva Hyusmenova, Vincenzo Iovine, María Irigoyen Pérez, Seán Kelly, Mojca Kleva, Constanze Angela Krehl, Petru Constantin Luhan, Elżbieta Katarzyna Łukacijewska, Vladimír Maňka, Iosif Matula, Erminia Mazzoni, Miroslav Mikolášik, Ana Miranda, Lambert van Nistelrooij, Jan Olbrycht, Markus Pieper, Tomasz Piotr Poręba, Monika Smolková, Ewald Stadler, Nuno Teixeira, Oldřich Vlasák, Kerstin Westphal, Hermann Winkler, Joachim Zeller						
Substitute(s) present for the final vote	Karin Kadenbach, Lena Kolarska-Bobińska, Czesław Adam Siekierski, Giommaria Uggias						

PROCEDURE

Title	Financing, management and monitoring of the CAP			
References	COM(2011)0628 – C7-0341/2011 – 2011/0288(COD)			
Date submitted to Parliament	12.10.2011			
Committee responsible Date announced in plenary	AGRI 25.10.2011			
Committee(s) asked for opinion(s) Date announced in plenary	DEVE 25.10.2011	BUDG 25.10.2011	CONT 25.10.2011	EMPL 25.10.2011
	ENVI 25.10.2011	REGI 25.10.2011		
Not delivering opinions Date of decision	EMPL 27.10.2011	ENVI 26.4.2012		
Rapporteur(s) Date appointed	Giovanni La Via 26.9.2011			
Discussed in committee	6.2.2012	24.4.2012	18.6.2012	18.9.2012
Date adopted	30.9.2013			
Result of final vote	+: -: 0:	35 6 0		
Members present for the final vote	John Stuart Agnew, Eric Andrieu, Liam Aylward, José Bové, Luis Manuel Capoulas Santos, Vasilica Viorica Dăncilă, Michel Dantin, Paolo De Castro, Albert Deß, Herbert Dorfmann, Robert Dušek, Hynek Fajmon, Mariya Gabriel, Iratxe García Pérez, Martin Häusling, Peter Jahr, Elisabeth Jeggle, Jarosław Kalinowski, George Lyon, Mairead McGuinness, Wojciech Michał Olejniczak, Marit Paulsen, Britta Reimers, Ulrike Rodust, Alfreds Rubiks, Giancarlo Scottà, Czesław Adam Siekierski, Sergio Paolo Francesco Silvestris, Alyn Smith, Csaba Sándor Tabajdi, Marc Tarabella, Janusz Wojciechowski			
Substitute(s) present for the final vote	Pilar Ayuso, María Auxiliadora Correa Zamora, Karin Kadenbach, Sandra Kalniete, Christa Klač, Giovanni La Via, Petri Sarvamaa, Dimitar Stoyanov			
Substitute(s) under Rule 187(2) present for the final vote	María Muñiz De Urquiza			
Date tabled	5.11.2013			