



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 21 June 2013

**Interinstitutional File:
2011/0288 (COD)**

**11082/1/13
REV 1**

**AGRI 391
AGRISTR 68
AGRIORG 88
AGRIFIN 101
CODEC 1495**

REVISED WORKING DOCUMENT

from: Presidency
to: Council
No. prev. doc.: 10204/1/13 REV 1
No. Cion prop.: 15426/11 + REV 1 (en, fr, de) - COM(2011) 628 final/2, 14314/12 - COM(2012) 551 final

Subject: Proposal for a Regulation of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy (the horizontal regulation *(CAP Reform)*)
- Presidency consolidated draft regulation reflecting the outcome of the informal trilogues

With a view to the Council (Agriculture and Fisheries) on 24-25 June 2013, delegations will find attached in the Annex the Presidency consolidated draft regulation reflecting the outcome of the informal trilogues as at 19 June 2013.

Outstanding issues appear between square brackets.

All changes compared to the Commission proposal are marked in bold underlined and strikethrough.

Recitals will be completed following the political agreement on all provisions. Agreed recitals in trilogues will follow in an Addendum.

DRAFT

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL**
**on the financing, management and monitoring of the common agricultural policy (the
horizontal regulation (*CAP Reform*))**

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,

~~Having consulted the European Data Protection Supervisor³,~~

Acting in accordance with the ordinary legislative procedure,

Whereas:

To be completed

¹ OJ C , , p..

² OJ C , , p..

³ ~~OJ C , , p..~~

TITLE I
SCOPE AND DEFINITIONS

Article 1

Scope

This Regulation lays down the rules on:

- (a) the financing of expenditure under the common agricultural policy, 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;
- (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" **means a farmer, an agricultural activity and an agricultural area within the meaning of ~~laid down in~~ Article 4 of Regulation (EU) xxx/xxx[DP] ~~shall apply for the purpose of this Regulation;~~**
- 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 of the Treaty within the framework of the common agricultural policy 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 common agricultural policy defined by the Treaty, the financing of the various measures falling under it, including rural development shall be made by:
 - (a) the European Agricultural Guarantee Fund, hereinafter referred to as the ‘EAGF’;
 - (b) the European Agricultural Fund for Rural Development, hereinafter referred to as 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 common agricultural policy;

(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[;];

(e) in case of exceptional circumstances and where the annual appropriations are insufficient within Heading 3 of the multiannual financial framework laid down in Regulation (EU) No xxx/xxx [MFF], the Union financial contribution to measures for emergency situations covered by Section 1 of Chapter I of Title II and in Section 1 of Chapter II of Title II of Regulation (EU) No xxx/xxx from the reserve for crises in the agricultural sector referred to in Article 25(6) of this Regulation, provided it has been committed and paid by 15 October at the latest. Commitments related to animal health and plant health emergency measures for crises occurring between 16 October and the end of the year may be financed from the reserve of the following financial year under the same conditions as described above.]

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, undertaken 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, ~~as well as the expenditure related to the Prize for innovative, local cooperation referred to in Chapter IV of Title III of Regulation (EU) No RD/xxx.~~

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 common agricultural policy. Those measures shall include in particular:

- (a) measures required for the analysis, management, monitoring, information exchange and implementation of the common agricultural policy, 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 common agricultural policy;

- (e) provision of information on the common agricultural policy in accordance with Article 47;
- (f) studies on the common agricultural policy 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 58/20034, acting in connection with the common agricultural policy;
- (h) measures relating to dissemination of information, raising awareness, promoting cooperation and exchanging experience at Union level, undertaken 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 ~~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.]

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

⁴ OJ L 11, 16.1.2003, p. 1.

- [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 ~~fulfil the accreditation criteria to be~~ laid down by the Commission pursuant to Article 8(a).]

[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, Member States may decide to maintain paying agencies which have been accredited at regional level before the entry into force of this Regulation. In addition, Member States may accredit paying agencies at national level for measures regulating or supporting agricultural markets under Regulation xxxx/2013 or for Posei programmes under Regulation xxxx/2013.**]

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 ~~of assurance~~ 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 ~~results of all available~~ **final** audits reports and ~~of checks~~ **controls** carried out, including an analysis of ~~systematic or recurrent~~ **the nature and extent of the errors and of** weaknesses **in systems identified**, as well as corrective actions **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, hereinafter referred to as 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;
- ~~(b) to establish a synthesis report providing an overview at national level of all management declarations of assurance referred to in point (b) of paragraph 3 and the audit opinions thereon referred to in Article 9;~~
- (c) ~~to ensure that remedial~~ **to take or coordinate, as the case may be,** actions **with a view to resolving is taken as regards** any deficiencies of a common nature and **keep that** the Commission is **kept** 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 coordination 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 coordination 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 agency;

(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).¹

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 underlying transactions**, ~~as well as the respect of the principle of sound financial management.~~ **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 **status tasks** of the certification bodies, ~~the specific tasks,~~ including the checks, ~~which they have to carry out~~ as well as the certificates and the reports, together with the documents accompanying them, to be drawn up by those bodies. ~~Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).~~ **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 and 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.⁵

⁵ The compromise text reflects **(point c)** the EP request for extending Article 12(2) as regards the sustainable development of the economic activities of farm, however with a slight change of wording ("priority being given"), which decreases the ambition of the EP amendment (not all rural development measures in the relevant areas need to be covered by the FAS), while keeping its spirit. The Presidency would like to remind delegations that for the rural development measures listed in point (c), professional advice is already mandatory for all beneficiaries. In many MS, advisors must be FAS-accredited. The Presidency therefore trusts that delegations will be able to accept the new wording of point c, since it does not entail major changes to the requirements already applicable.

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;**⁶
 - (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.**

The compromise text proposed by the Commission for the **compulsory scope** of the FAS also takes over 2 elements of Annex I, the Water Framework Directive (**point d**) and the Sustainable use of pesticides Directive (**point e**). These are key new legislation for farmers. Farmers will need advice to implement the new requirements, especially in the period before their introduction into cross-compliance so that this introduction is as smooth as possible. The wording of points (d) and (e) makes clear that only those requirements defined by MS for transposing the Directives must be included in the FAS and, where the MS has not transposed the Directives, the requirement obviously does not apply. Indeed, it is not because those Directives have not yet been included in the scope of cross-compliance that they do not entail any requirements at farm level or any penalties in case of non-compliance. Such penalties simply take a form other than a reduction in direct payments and would normally be set out in national legislation transposing the directives.

The Commission and Parliament would be ready to accept the deletion of Directives 2000/60/EC and 2009/128/EC in Article 93 (accompanied by a joint statement by Council and Parliament) provided that advice relating to these two Directives is part of the compulsory part of the FAS.

All other elements are transferred to the **optional scope** of the FAS (Article 12(3) and a redrafted Annex I). Agreement on **optional scope** of the FAS depends on the Council's agreement with the new text on the **compulsory scope** of the FAS.

⁶ **Explanation: Same wording as proposed by the EP for Art. 12(3) except point (ac), which is already covered by the Directive on sustainable use of pesticides in the compulsory scope.**

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 **this 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, whether or not they receive support under the common agricultural policy, including rural development, 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:**

(a) farmers participating in the measures intended to ensure carbon, nutrient and/or energy efficiency described in Chapter 2 of Title III of Regulation (EU) No xxx/xxx[DP];

(b) 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

~~1. In order to guarantee the proper functioning of the farm advisory system, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning provisions aiming at rendering that system fully operational. Those provisions may relate, amongst others, to the accessibility criteria for farmers.~~

2.—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) **or, where they relate solely to either direct payments, rural development or the common organisation of markets, in, respectively, Article xxx of Regulation (EU) No xxx/xxx[DP], Article xxx of Regulation (EU) No xxx/xxx[RD] or Article xxx of Regulation (EU) No xxx/xxx[sCMO].**

TITLE IV
FINANCIAL MANAGEMENT OF THE FUNDS

Chapter I

EAGF

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 implementing acts referred to in** 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.

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.

34. The amounts referred to in ~~the~~ 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 common agricultural policy, 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

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. To be completed.]
- [3. To be completed.]
- [4. To be completed.]
- [4a. To be completed.]
- [5. To be completed.]
- [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. These measures **shall be are** adopted by the Council **where the legal basis of the relevant measure is on the basis of** Article 43(3) of the Treaty or **by** the European Parliament and the Council **where the legal on the basis of the relevant measure is** Article 43(2) of the Treaty.]
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.

Before 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) firstly, 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) secondly, 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

~~Without prejudice to the eligibility for~~ Except with regard to support provided for under Articles 29(3) and 30(2) of Regulation (EU) No RD/xxx, expenditure financed under the EAFRD shall not be 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.

~~In accordance with Article 70(2) of Regulation (EU) No CR/xxx, w~~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 **decision of 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: 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.**

(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, 143 of the TFEU, or from the EFSF, or is receiving financial assistance on 31 December 2014 in accordance with articles 136 and 143;

(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 will 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 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 the rural development regulation**.
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~~ Article 39 and to the ~~implementing acts referred to in~~ 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 not 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 ~~second~~**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 by 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 + ~~2~~ **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 + ~~2~~ 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.

[Section 4

Financing of the Prize for innovative, local cooperation

Article 38

Budget commitments

~~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.~~

~~Following the adoption of the Decision referred to in the first paragraph, the Commission shall made 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.~~

Article 39

Payments to the Member States

- ~~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.~~
- ~~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)(e).~~

~~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.~~

Article 40

~~Automatic decommitment for the Prize for innovative, local cooperation~~

~~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.~~

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

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

4. 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 the financial impact proportional to the payment delay observed, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning rules on the reduction of payments in relation to the non-respect of the payment period.

- ~~[2. Where the latest possible date of payment is not respected by the Member States, they shall pay the beneficiaries default interests, **supported from the national budget. This paragraph shall not apply in cases where the payment delay is not the fault of the Member State concerned.**]~~

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 irregular payments are not being recovered with the necessary diligence there are similar serious deficiencies in the system for the recovery of irregular payments and if one** of the following conditions is met:

(a) **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**

(b) 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 ~~implementing acts referred to in~~ **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 ~~for which the relevant statistical information has not been sent in time~~ **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 and the detailed rules it has adopted on the basis of Article 48(5), 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, Article 53 as regards expenditure under EAGF, 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 ~~(EU) (EC)~~ No 1234/2007 ~~sCMO-align/xxx of European parliament and of the Council~~⁷;
 - (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;

⁷ OJ L ~~{299}~~, {16.11.2007}, p. ~~{1}~~.

(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 Common Agricultural Policy, 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.

Financing of 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 common agricultural policy 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 **people 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 acts² 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.
- ~~2. In order to ensure the proper management of the appropriations entered in the budget of the Union for the EAGF and the EAFRD, 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.~~
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 acts² 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, ~~and to ensure compliance with the obligation to notify pursuant to Article 102,~~ the Commission shall be empowered to adopt delegated acts in accordance with Article 111 ~~on the conditions governing the reduction and suspension of payment to Member States, with regard to expenditure under the EAGF and the EAFRD respectively~~ 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 ~~and period~~ of suspension of payments referred to in that Article;²
 - ~~(c) the conditions for lifting the suspension.~~
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;

~~(e) rules on the payment by the Member States of default interests to the beneficiaries as referred to in Article 42(2) procedure and other modalities for the proper functioning of the mechanism provided for in Article 44.~~

~~(ed) the deferral of monthly payments by the Commission to Member States with regard to expenditure under the EAGF and the implementation of 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.~~

Those implementing acts ~~provided for in the first subparagraph~~ 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 of the Treaty or based on Council Regulation (EC) No 2185/96⁸, the 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.

⁸ OJ L 292, 15.11.1996, p. 2.

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 1073/1999⁹ 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.

⁹ OJ L 136, 31.5.1999, p. 1.

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 relating to the common agricultural policy, where those acts have a financial impact on the EAGF or the EAFRD.
3. Member States shall make available to the Commission all 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 the second subparagraph of Article 52.**

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

Implementing 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** ~~30 April~~ 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 it is impossible, 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 either identify more precisely the financial damage caused to the Union extent and amount of the non-conformity recorded or to apply an extrapolated correction.**

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 ~~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 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 each party's position within four months. 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 does not decide 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

Implementing 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 act 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, 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.

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, ~~or~~, **this condition shall be deemed to have been met**

- **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**
- **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 ~~budget~~.

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.

The ose implementing acts ~~provided for in the first subparagraph~~ 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 **financing 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 act 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 common agricultural policy, 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.

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).

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** ~~while targeting~~ also **targeting the areas where highest 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 State 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.

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 require, additional requirements with respect to customs procedures, in particular as laid down in Regulation (EC) No 450/2008 of the European Parliament and of the Council.**

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) or, **where they relate solely to either direct payments, rural development or the common organisation of markets, in, respectively,** Article xxx of Regulation (EU) No xxx/xxx[DP], Article xxx of Regulation (EU) No xxx/xxx[RD] or Article xxx of Regulation (EU) No xxx/xxx[sCMO].]

Article 65

Undue payments and administrative penalties

1. Where it is found that a beneficiary does not comply with the eligibility criteria, ~~or the~~ 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 Union law~~ 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) by way of reductions or exclusions of the payment or part of the payment granted or to be granted in respect of which the eligibility criteria or the commitments have been met.**
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 **in full 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.**¹⁰
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 procedures regarding~~ the recovery of undue payments and penalties as well as in respect of unduly allocated payment entitlements and the application of interest, ~~as well as their application in specific cases of force majeure.~~

¹⁰ The EP requests a split between delegated and implementing powers. The delegated powers would cover, *inter alia*, the following rules currently in force: Article 10 of Commission Regulation (EC) No 1741/2006 (special export refund beef), Article 7 of Commission Regulation (EC) No 1359/2007 (special export refund on certain beef cuts), Articles 15(4), 18(4), 29 and 34 of Commission Regulation (EC) No 826/2008 (private storage aid), Article 12 of Commission Regulation (EC) No 288/2009 (school fruit), Articles 4, 5, 25, 32, 39, 47 and 48 of Commission Regulation (EC) No 612/2009 (export refunds horizontal rules) and Article 6 of Commission Regulation (EU) No 817/2010 (export refund live bovine animals).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3) or, where they relate solely to either direct payments, rural development or the common organisation of markets, in, respectively, Article xxx of Regulation (EU) No xxx/xxx[DP], Article xxx of Regulation (EU) No xxx/xxx[RD] or Article xxx of Regulation (EU) No xxx/xxx[sCMO]. ~~The Commission shall adopt separate legal acts adapted to the specificities of each area.~~

Article 66

~~Commission powers as regards~~ **Application of administrative penalties**

1. ~~In order to strike a balance between a deterrent effect of charges and penalties to be imposed for non-compliance with any of the obligations resulting from the application of the sectoral agricultural legislation on the one hand, and a flexible application of the system on the other hand, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning the rules and conditions relating to the following:~~ **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. The Commission shall, by means of implementing acts, adopt the following: **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 out 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) the identification of the person concerned referred to in paragraph 3 bound by the specific obligations and subject to penalties in case of non-compliance;

(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) or, where they relate solely to the common organisation of markets, in Article xxx of Regulation (EU) No xxx/xxx[sCMO] in the corresponding Article of Regulation (EU) No xxx/xxx[DP], Regulation (EU) No xxx/xxx[RD] or Regulation (EU) No xxx/xxx[sCMO] respectively.

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 first subparagraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3) or, where they relate solely to the common organisation of markets Article xxx of Regulation (EU) No xxx/xxx [sCMO].

Article 67
Securities

1. The Member States shall, when the sectoral agricultural legislation so provides, request the lodging of a security ~~giving the assurance guaranteeing~~ that **a sum of money will be paid or forfeited to a competent authority if a particular** ~~an~~ 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. ~~In order to ensure a non-discriminatory treatment, equity and the respect of proportionality when lodging a security,~~ ~~the~~ 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 meaning of terms for the application of the first and second paragraphs;~~

 - (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.;

~~(f) — the primary, secondary or subordinate requirements in relation to securities, as well as the consequences of breaching those requirements;~~

(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 ~~referred to in the first subparagraph~~ shall be adopted in accordance with the examination procedure referred to in Article 112(3) or, **where they relate solely to either direct payments, rural development or the common organisation of markets, in, respectively, the corresponding** Article **xxx** of Regulation (EU) No xxx/xxx[DP], **Article xxx of** Regulation (EU) No xxx/xxx[RD] or **Article xxx of** Regulation (EU) No xxx/xxx[sCMO] ~~respectively~~.

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 (~~hereinafter referred to as~~ 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, ~~and~~ 35 ~~and 40a~~ of Regulation xxx/xxx [RD] and where applicable Article ~~28(1)(b)~~ 31(b) and (c) of ~~r~~Regulation (EU) CR/xxx.

~~However, t~~This Chapter shall not, ~~however,~~ apply to measures referred to in Article 29(9) of Regulation (EU) No xxx/xxx[RD], ~~as well as~~ 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 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.

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 Regulations (EC) No 1760/2000 of the European Parliament and of the Council¹¹ and Council Regulation (EC) No 21/2004¹².
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.**

¹¹ OJ L 204, 11.8.2000, p. 1.

¹² OJ L 5, 9.1.2004, p. 8.

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.

~~This~~**at** 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 starting from 2000. 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 ~~five~~ **four** consecutive calendar years **and, for data related to "permanent pasture" as defined in Article 2 point (c) of Commission Regulation (EC) No 1120/2009 in its original version and, for periods as from its date of application, under Regulation 73/2009 and its implementing rules and "permanent grassland and permanent pasture" as defined in Article 4(h) of DPR, at least the previous [five] consecutive calendar years.**

By derogation to the 2nd 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.

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 an appropriate tolerance margin¹³ -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 the 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 **[2019] at the latest.**¹⁴¹⁵

¹³ See also Article 77(2)(a).

¹⁴ See also Article 77(2)(a).

¹⁵ To be read in conjunction with Recital 41a: "**[(41a) For the purpose of creating a reference layer in developing the identification system for agricultural parcels to accommodate the ecological focus areas, Member States could take account of any specific information that may be required from supplied by farmers, on their applications for claim years [XXXX] to [XXXX] 2015, 2016, 2017 and 2018 such as, in particular the identification by the farmer of those landscape features or other areas which may qualify as ecological focus areas and, where necessary, an indication of the size of such features and other areas.**"

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 ~~the first sub~~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 ~~one hectare~~ **1 ha. In all cases,** That ~~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, ~~by the use of~~ **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:**

- is valid if the beneficiary confirms the absence of changes with respect to the aid application and the payment claim submitted the previous year,

- needs to contain only changes with respect to the aid application **and the payment claim** submitted **for** the previous year.

However, ~~as concerns~~ **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 Council [of 3 June 1971 determining the rules applicable to periods, dates and time limits]¹⁶, 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.**

¹⁶ **OJ L 124, 8.6.1971, p. 1.**

Article 74

System for the identification of beneficiaries

The single system ~~to~~ **for the purpose of recording** the identity of each beneficiary of **the** support as **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 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.

However 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.

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 ~~any~~ 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 ~~for the proper application of this Chapter as well as arrangements for any mutual assistance needed between 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 ~~by means of~~ **be empowered to adopt** delegated acts in accordance with Article 111 ~~lay down the following:~~ concerning

- (a) ~~rules on the minimum size of agricultural parcels to be declared in order to reduce the administrative burden for the beneficiaries and authorities~~ the basic features, technical rules, including for the update of reference parcels appropriate tolerance margins¹⁷ taking into account the outline and condition of the parcel¹⁸, and 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) ~~provisions required for a harmonised definition of a basis for calculation of aid, including rules on how to deal with certain cases where eligible areas contain landscape features or trees~~ the basic features, technical rules and quality requirements for the system for the identification and registration of payment entitlements provided for in Article 72;

¹⁷ The tolerance margins would no longer be mentioned in Article 71(1), which relates to a stable LPIS. They had already been deleted in doc. 10240/1/13 REV 1. Instead, they have been moved to delegated powers under Article 77(2)(a), which relates to the parcel measurement used to update the LPIS. The system is updated through on-the-spot checks and remote sensing. LPIS is made up of fixed "reference parcels" defined by MS whose area shall be stable in time (the reference eligible area) to allow annual cross-checks of 100% of the aid applications of farmers ("administrative cross-checks").

¹⁸ The Presidency takes the view that with the Commission being conferred delegated powers to lay down technical rules regarding the inclusion of landscape features located adjacent to a parcel, the second subparagraph of Article 71(2) can be deleted, as already set out in doc. 10240/1/13 REV 1.

- (c) ~~a derogation from Regulation (EEC, Euratom) No 1182/71 of the Council [of 3 June 1971 determining the rules applicable to periods, dates and time limits] in order to safeguard the beneficiaries' rights to payments where the final date for submission of applications or amendments is a public holiday, Saturday or Sunday;~~ 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; ~~taking into account their ecological benefits,~~ 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 **agricultural reference** parcel, as being automatically part of the eligible area without a requirement to map them for this purpose¹⁹.

¹⁹ The previous text (Article 77(2)(b)) read: “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; **taking into account their ecological benefits, such rules shall allow Member States to consider landscape features, the total area of which does not exceed a certain percentage of the agricultural parcel, as being automatically part of the eligible area without a requirement to map them for this purpose**”.

That provision would have entailed two major **unacceptable consequences**:

- **payment for large ineligible areas**, while the ecological benefits of landscape features are already recognised with the reform via the change in the definition of permanent grassland, the new green payment, including the definition of EFA's, and the cross compliance/GAEC;
- **it would render the LPIS ineffective and disqualify it as a stable reference for cross-checks** while the LPIS is the core piece of the integrated control system to limit the risk of misuse of EU funds.

In order to overcome these problems and propose a compromise solution seeking simplification, the following changes could be envisaged:

- An application of the percentage of landscape features to the reference parcel instead of the agricultural parcel; as the reference parcel is stable in time, this change would limit the risk that eligibility could change annually; AND,
- Article 77(2)(c) should only apply to reference parcels where the landscape features are scattered to avoid problems with the delineation of the reference parcel; AND,
- The scope of the provision should be limited to areas where it actually makes sense i.e. areas under permanent grassland; this will limit the necessary LPIS upgrade to those parcels.

The notion of ecological benefits is better placed in a recital and is already covered by a previous modification of recital (41) ((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 while taking into account the evolution of the policy, in particular the introduction of the payment for agricultural practises 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 these systems, with a view to reducing administrative burden and ensuring efficient and effective controls.**"). It is therefore suggested to delete it from the empowerment.

- (d) ~~in the case of late application for payment or for allocation of entitlements, the maximum delay and reductions in case of such delay.~~

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, ~~of exceptional circumstances~~ to be defined by the Commission in accordance with paragraph 6 point (b).

3. The Administrative penalties may be applied to 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.

15a. 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 set out in paragraph 4 point (a). 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 15% for claim year 2015, 20% for claim year 2016 and 25% starting with claim year 2017, 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 covered by the sectoral agricultural legislation 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) or in the corresponding Article of Regulation (EU) No xxx/xxx[DP] or Regulation (EU) No xxx/xxx[RD] respectively.

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;

(b) ~~the basic features, 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;~~ **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) ~~the basic features, definitions and quality requirements for the system for the identification and registration of payment entitlements provided for in Article 72;~~ **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) ~~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; technical definitions specifications needed for the purpose of the uniform implementation of this Chapter;~~
- (e) ~~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; 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) ~~technical definitions needed for the purpose of the uniform implementation of this Chapter rules on the payment of the advances referred to in Article 76.~~
- (g) ~~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;~~
- (h) ~~rules on the payment of the advances referred to in Article 76;~~
- (i) ~~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~~

The implementing acts provided for in the first paragraph shall be adopted in accordance with the examination procedure referred to in Article 112(3) or, where they relate solely to either direct payments or rural development, in, respectively, Article xxx of Regulation (EU) No xxx/xxx[DP] or Article xxx of Regulation (EU) No xxx/xxx[RD].

Chapter III

Scrutiny of transactions

Article 79

Scope and definitions

1. This Chapter sets 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, hereinafter ‘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 documents’ 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 Union territory, 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.

4. 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 ~~on-the-spot checks~~ 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. ~~Those~~ **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

- ~~1. In order to exclude from the application of this Chapter those measures which are by their nature unsuited for ex-post checks by way of scrutiny of commercial documents, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 establishing a list of other measures to which this Chapter does not apply, and modifying the threshold of 40000 euros referred to in Article 84(6).~~
2. The Commission shall, where necessary, by means of implementing acts adopt the provisions aiming at reaching a uniform application of this Regulation **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 ~~provided for in the first subparagraph~~ 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 measures

1. Member States shall take measures to ensure that the products referred to in in ~~Annex I to~~ **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 ~~is~~ **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 ~~in the event of infringement of those rules~~, 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; ~~and for rules on the Member States' own databanks;~~
- (b) rules on control bodies and the mutual assistance between them;
- (c) rules on the common use of Member States' findings;
- ~~(d) rules on the application of penalties in the case of exceptional circumstances.~~

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) or, where they relate solely to the common organisation of markets, in Article xxx of Regulation (EU) No xxx/xxx[sCMO].

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, ~~and~~ 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 Council²⁰ and shall ensure that any operator complying with those obligations is entitled to be covered by a system of checks.

²⁰ OJ L 165, 30.4.2004, p.1.

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, **and** 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 ~~provided for in the first subparagraph~~ shall be adopted in accordance with the examination procedure referred to in Article 112(3) or, **where they relate solely to the common organisation of markets,** in the corresponding Article xxx of Regulation (EU) No xxx/xxx[sCMO].]

TITLE VI
CROSS COMPLIANCE

Chapter I
Scope

Article 91

General principle

1. When a beneficiary referred to in Article 92 does not comply, ~~on the holding,~~ with the rules on cross-compliance as laid down in Article 93, **an administrative** penalty shall be **applied to imposed on** that beneficiary.

2. The **administrative** penalty referred to in paragraph 1 shall **only** apply ~~only in so far as~~ **where**
 - (a) 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:**

 - (ba) the non-compliance is related to the agricultural activity of the beneficiary; **and**

 - (eb) the area of the holding of the beneficiary is concerned.

However, **With regard to** ~~for~~ forest areas, **however**, this penalty shall not apply in so far as no support is claimed for the **area** concerned ~~area~~ 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[RDs].

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]. **and The penalty provided for in that Article shall also not apply to the support to the beneficiaries receiving aid under 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. ~~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 implementation of the Directive to the Commission.~~
4. ~~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.~~

5. In addition, as regards the years ~~2014 and 2015~~ **2015 and 2016** , the rules on cross compliance shall also comprise the maintenance of permanent **grassland pasture**. The Member States which were Member of the Union ~~at~~ **on** 1 January 2004 shall ensure that land which was under permanent **grassland pasture** at the date provided for the area aid applications for 2003 is maintained under permanent **grassland pasture** within defined limits. The Member States which became Member of the Union in 2004 shall ensure that land which was under permanent **grassland pasture** on 1 May 2004 is maintained under permanent **grassland pasture** within defined limits. Bulgaria and Romania shall ensure that land which was under permanent **grassland pasture** on 1 January 2007 is maintained under permanent **grassland pasture** within defined limits. Croatia shall ensure that land which was under permanent **grassland pasture** on 1 July 2013 is maintained under permanent **grassland pasture** within defined limits.

The preceding subparagraph shall not apply to land under permanent **grassland 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.

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

[Furthermore, the Commission shall, by means of implementing acts, adopt **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 **grassland pasture** and agricultural land that has to be maintained. ~~Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).~~]

For the purpose of this Article paragraph, permanent pasture shall mean permanent pasture as defined in ~~Council Regulation (EC) 73/2009 and its implementing rules Article 2 point (c) of Commission 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 pigs²¹ 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.

²¹ OJ L 213, 8.8.2008, p. 31.

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 ~~in~~ this Title, **including rules allowing that checks of requirements, standards, acts or areas of cross compliance take account of the following factors:**

- farmers' participation in the farm advisory system provided for in Title III of this Regulation;

- 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) **or, where they relate solely to either direct payments, rural development or the common organisation of markets, in, respectively, Article xxx of Regulation (EU) No xxx/xxx[DP], Article xxx of Regulation (EU) No xxx/xxx[RD] or Article xxx of Regulation (EU) No xxx/xxx[sCMO].**

Article 97

Application of the **administrative** penalty

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 (~~hereinafter referred to as~~ ‘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] (~~hereinafter referred to as~~ ‘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’ shall mean 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, ~~and~~ 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 ~~to~~ 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 ~~repeated non-compliance~~ 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 ~~10~~ 25 % of the amounts resulting from the application of the reductions and exclusions referred to in Article 99.

Article 101

**~~Delegated~~ 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. ~~In order to ensure 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 concerning the calculation and application of penalties. The Commission shall, by means of implementing acts, lay down detailed procedural and technical rules concerning the application and calculation 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) or, where they relate solely to either direct payments, rural development or the common organisation of markets, in, respectively, Article xxx of Regulation (EU) No xxx/xxx[DP], Article xxx of Regulation (EU) No xxx/xxx[RD] or Article xxx of Regulation (EU) No xxx/xxx[sCMO].

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 details,

- (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;
 - ~~(iii) by 15 February of the year following the financial year concerned, when a Member State has accredited more than one paying agency, a synthesis report consisting of an overview at national level of all management declarations of assurances and the audit opinions thereon from the certification bodies;~~
 - (iv) the management declaration ~~of assurance~~ 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 Council Regulation (Euratom, EC) No 2185/96 shall apply to that information.

²² OJ L 292, 15.11.1996, p. 2.

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 ~~of assurance~~ 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;
 - (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 **provided for in the first subparagraph** 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 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, derogate from the existing **rules for a period of time which is strictly necessary to safeguard the application of Union legislation**.

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 common agricultural policy

1. 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., 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 application of the cross compliance provided for in 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 multi-annual 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 **impact performance** of the common agricultural policy 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 common agricultural policy 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 common agricultural policy 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 common agricultural policy 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 common agricultural policy, including evaluations on rural development programmes, as well as other relevant information sources, reports on measuring and assessing the joint performance of all common agricultural policy instruments shall be prepared by the Commission.

34. 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).

45. The Commission shall present a **first** report on the implementation of this Article, **including first results on the performance of the common agricultural policy**, to the European Parliament and the Council ~~every four years. The first report shall be presented~~ **not later than 31 December 2018. A second report including an assessment of the performance of the common agricultural policy 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

~~Where the amount of aid received in one year by a beneficiary is equal or less than the amount fixed by a Member State pursuant to Article 49 of Regulation (EU) No DP/xxx that Member State shall not publish the name of that beneficiary as provided for in point (a) of the first subparagraph of Article 110a(1) of this Regulation.~~

~~The amounts fixed by a Member State 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.~~

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], 15, 20, [42], [48], 52, 55, 59, 64, 65, 66, 67, 73, 77, 77a, 79, 84, 89, 93, 96, 101, 106, 110 and 114 is conferred on the Commission subject to the conditions laid down in this Article.
2. The ~~delegation of~~ power to adopt delegated acts referred to in ~~this Regulation~~ Articles [8], 15, 20, [42], [48], 52, 55, 59, 64, 65, 66, 67, 73, 77, 77a, 79, 84, 89, 93, 96, 101, 106, 110 and 114 shall be conferred on the Commission for ~~an indeterminate~~ 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], 15, 20, [42], [48], 52, 55, 59, 64, 65, 66, 67, 73, 77, 77a, 79, 84, 89, 93, 96, 101, 106, 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], 15, 20, [42], [48], 52, 55, 59, 64, 65, 66, 67, 73, 77, 77a, 79, 84, 89, 93, 96, 101, 106, 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 the Committee ~~called "Committee~~ on the Agricultural Funds".** That committee shall be a committee 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.**

Article 112b

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 44a of Regulation (EC) No 1290/2005 shall continue to apply.**~~

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

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.

However, the following provisions shall apply ~~from 16 October 2013~~:

- (a) Articles 7, 8, 16, 24a, 25, from 16 October 2016 ~~and 9~~;
- (b) Articles 18, 42, ~~43~~ and 45 ~~as regards 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

~~Minimum scope of the farm advisory system~~ **Information** in the field of climate change mitigation and adaptation, biodiversity and, the protection of water, ~~animal and plant disease notification and innovation~~, as laid down in Article ~~12(2)(e)~~ **12(3)(d)**

~~Requirements or actions and advices at the level of beneficiaries as defined by Member States where appropriate under:~~

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..

~~Investments in physical assets as provided for under Article 18(1) (c) of Regulation (EU) N° xx/xxx [RD].~~

~~Restoration of agricultural production potential and introduction of appropriate prevention action as provided for under Article 19 of Regulation (EU) N° xx/xxx [RD].~~

~~Afforestation and creation of woodland as provided for under Article 22(1)(a) of Regulation (EU) N° xx/xxx [RD].~~

~~Establishment of agro-forestry systems as provide for under Article 22(1)(b) of Regulation (EU) N° xx/xxx [RD].~~

~~Prevention and restoration of damages to forest from forest fires and natural disasters as provided for under Article 22(1)(e) of Regulation (EU) N° xx/xxx [RD].~~

- ~~Investments improving the resilience and environmental value of forest ecosystems as provided for under Article 22(1)(d) of Regulation (EU) N° xx/xxx [RD].~~
- ~~Investments in new forestry technologies and in processing and marketing of forest products as provided for under Article 22(1)(c) of Regulation (EU) N° xx/xxx [RD].~~
- ~~Agri-environment operations addressing climate change mitigation and adaptation as provided for under Article 29 of Regulation (EU) N° xx/xxx [RD].~~
- ~~Organic farming addressing climate change mitigation and adaptation as provided for under Article 30 of Regulation (EU) N° xx/xxx [RD].~~
- ~~Environmental services from forests and forest conservation addressing climate change mitigation and adaptation as provided for under Article 35 of Regulation (EU) N° xx/xxx [RD].~~
- **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:

- ~~———— Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds.~~
- ~~———— Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.~~
- ~~———— Investments in physical assets as provided for under Article 18(1) (d) of Regulation (EU) N° xx/xxx [RD].~~
- ~~———— Establishment of agro-forestry systems as provided for under Article 22(1)(b) of Regulation (EU) N° xx/xxx [RD].~~
- ~~———— Investments improving the resilience and environmental value of forest ecosystems as provided for under Article 22(1)(d) of Regulation (EU) N° xx/xxx [RD].~~
- ~~———— Agri-environment operations addressing biodiversity as provided for under Article 29 of Regulation (EU) N° xx/xxx [RD].~~
- ~~———— Organic farming addressing biodiversity as provided for under Article 30 of Regulation (EU) N° xx/xxx [RD].~~
- ~~Environmental services from forests and forest conservation addressing biodiversity as provided for under Article 35 of Regulation (EU) N° xx/xxx [RD].~~
- 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:

- ~~Article 11(3) of Directive 2000/60/EC establishing a framework for Community action in the field of water policy.~~
- ~~Proper use of plant protection product as laid down in 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 pesticide.~~
- ~~Investments in physical assets for water management as provided for under Article 18(1)(e) of Regulation (EU) N° xx/xxx [RD].~~
- ~~Agri-environment operations addressing water management as provided for under Article 29 of Regulation (EU) N° xx/xxx [RD].~~
- ~~Organic farming addressing water management as provided for under Article 30 of Regulation (EU) N° xx/xxx [RD].~~
- 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.

Notification of animal and plant diseases:

- ~~Council Directive 2003/85/EC of 29 September 2003 on Community measures for the control of foot and mouth disease.~~
- ~~Council Directive 92/119/EEC of 17 December 1992 introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease.~~
- ~~Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue.~~
- ~~Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community.~~

Innovation:

- ~~Information on actions targeted towards innovation.~~
 - ~~Dissemination of the activities in the framework of the [European Innovation Partnership] Network provided for in Article 53 of Regulation (EU) N° xx/xxx [RD].~~
 - ~~Cooperation as provided for under Article 36 of Regulation (EU) N° xx/xxx [RD].~~
- General
- Exchange of best practice, training and capacity building (horizontal to all themes mentioned above)

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 ²³	
		GAEC 2	Where use of water for irrigation is subject to authorisation, compliance with authorisation procedures	
		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 the Directive 80/68/EEC	

²³ 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.

	Soil and carbon stock	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 <u>through appropriate practices</u> including ban on burning arable stubble, <u>except for plant health reasons</u> ²⁴	
		GAEC 7	<u>Protection of wetland and carbon rich soils including a ban of first ploughing</u> ²⁵	
	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 8	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, <u>possible as an option</u> , measures for avoiding invasive <u>plant species and pests</u>	

²⁴ **The requirement can be limited to a general ban on burning arable stubble, but a Member State may decide to prescribe further requirements.**

²⁵ **Ploughing of wetland and carbon rich land which has been defined in 2011 at the latest as arable land in accordance with Article 2 point (a) of Regulation (EC) No 1120/2009 and which complies with the definition of arable land as laid down in Article 4 point (f) of the Regulation (EU) No DP/xxx shall not be considered as first ploughing.**

Public health, animal health and plant health	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 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)	Articles 14 and 15, Article 17(1) ²⁶ 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

²⁶ As implemented in particular by:
— Regulation (EEC) No 2377/90: Articles 2, 4 and 5,
— 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.

	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 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)	Article 55, first and 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
