



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 23 September 2013

13959/13

**Interinstitutional File:
2011/0280 (COD)**

**AGRI 594
AGRIFIN 139
CODEC 2098**

NOTE

from:	Council Secretariat
to:	Delegations
No. Cion prop.:	15396/11 + REV 1, REV 2 (NL), REV 3 - COM(2011) 625 final/3 14483/12 - COM(2012) 552 final
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (<i>CAP Reform</i>) - <i>Final adjustments to the Council mandate</i>

Further to the Council ("Agriculture and Fisheries") on 23 September 2013, delegations will find in Annex the final adjustments to the Council mandate.

Article 11

Progressive reduction and capping of the payment

1. *Member States shall reduce the amount of direct payments to be granted to a farmer pursuant to Chapter 1 of under Title III of this Regulation in a given calendar ~~shall be reduced~~ year as follows:*
 - ~~by 20 at least 5 % for the tranche of more than part of the amount exceeding EUR 150 000 and up to EUR 2300 000;~~
 - ~~by 40 % for the tranche of more than EUR 2300 000 and up to EUR 250 000;~~
 - ~~by 70 % for the tranche of more than EUR 250 000 and up to EUR 300 000;~~
 - ~~by 100 % for the tranche of more than EUR 300 000.~~
2. *Before applying paragraph 1, Member States may subtract The amount referred to in paragraph 1 shall be calculated by subtracting the salaries linked to an agricultural activity effectively actually paid and declared by the farmer in the previous year, including taxes and social contributions related to employment, from the total amount of payments to be granted to a farmer pursuant to Chapter 1 of Title III of this Regulation in a given calendar year of direct payments initially due to the farmer without taking into account the payments to be granted pursuant to Chapter 2 of Title III of this Regulation. Where no data is available on the salaries actually paid and declared by the farmer in the previous year, the most recent data available shall be used.*

3. Member States ~~shall ensure that no payment is made to farmers for whom it is established that, as from the date of publication of the Commission proposal for this Regulation, they artificially created the conditions to avoid the effects of this Article~~ *that decide to grant a redistributive payment to farmers pursuant to Chapter 1a of Title III and to use more than 5% of the annual national ceiling set out in Annex II for that purpose may decide not to apply this Article. Where the application of the maximum limits set out in Article 28g(4) prevents a Member State from reaching this percentage, that Member State may decide not to apply this Article.*
4. *No advantage by means of avoiding progressive reductions and/or capping of the payment shall be granted in favour of farmers in respect of whom it is established that, as from 19 October 2011, they artificially created the conditions to avoid the effects of this Article.*
- 4a. *In the case of a legal person, or a group of natural or legal persons, Member States may apply the reduction referred to in paragraph 1 at the level of the members of those legal persons or groups where national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of head of holding, in particular as regards their economic, social and tax status, provided that they have contributed to strengthening the agricultural structures of the legal persons or groups concerned.*
5. *Member States shall notify the Commission by 1 August 2014 of the decisions taken in accordance with this Article and the estimated product of reductions and, where relevant, capping for the years 2015 to 2019.*

Flexibility between pillars

1. Before ~~1 August 2013~~ **31 December 2013**, Member States may decide to make available as additional support for measures under rural development programming financed under the EAFRD as specified under Regulation (EU) No [...] [RDR], up to ~~10~~ **15%** of their annual national ceilings for calendar years 2014 to 2019 as set out in Annex II to this Regulation. As a result, the corresponding amount shall no longer be available for granting direct payments.

The decision referred to in the first sub-paragraph shall be notified to the Commission by ~~the date referred to in that sub-paragraph~~ **31 December 2013**. ~~That decision shall set out~~
~~The percentage notified as referred to in accordance with the second that~~ sub-paragraph
~~which may vary by shall be the same for calendar year the years referred to in the first~~
~~sub-paragraph.~~

Member States which do not make use of the first sub-paragraph for calendar year 2014 may take the decision referred to therein, as regards calendar years 2015 to 2019, before 1 August 2014 and shall notify it to the Commission by 1 August 2014.

Member States may decide to review the decisions referred to in this paragraph with effect from calendar year 2018. Such review shall not result in a decrease of the percentage notified to the Commission in accordance with the first, second and third sub-paragraphs. Member States shall notify the Commission of such decisions to review by 1 August 2017.

2. Before ~~1 August 2013~~ **31 December 2013**, *Member States not using the possibility under paragraph 1 may decide to make available as direct payments under this Regulation up to 15 % or, in the case of Bulgaria, Estonia, Finland, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Spain, Sweden and the United-Kingdom, ~~may decide to make available as direct payments under this Regulation~~ up to 25 % of the amount allocated to support for measures under rural development programming financed under the EAFRD in the period 2015-2020 as specified under Regulation (EU) No [...] [RDR].] As a result, the corresponding amount shall no longer be available for support measures under rural development programming.*

The decision referred to in the first sub-paragraph shall be notified to the Commission by ~~the date referred to in that sub-paragraph~~ **31 December 2013**. *That decision shall set out the percentage notified as referred to in accordance with the second that sub-paragraph which may vary by shall be the same for calendar year the years referred to in the first sub-paragraph of paragraph 1.*

Member States which do not make use of the first sub-paragraph for financial year 2015 may take the decision referred to in the first sub-paragraph, as regards the period 2016-2020, before 1 August 2014 and shall notify it to the Commission by 1 August 2014.

Member States may decide to review the decisions referred to in this paragraph with effect for financial years 2019 and 2020. Such review shall not result in an increase of the percentage notified to the Commission in accordance with the first, second and third sub-paragraphs. Member States shall notify the Commission of such decisions to review by 1 August 2017.