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**NOTE**

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from: Presidency  
to: Delegations

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No. Cion prop.: 15396/11 + REV 1, REV 2 (NL), REV 3 - COM(2011) 625 final/3, 14483/12 - COM(2012) 552 final

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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 (*CAP Reform*)  
*- Presidency revised consolidated draft Regulation*

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Following the meeting of the Special Committee on Agriculture on 10 December 2012, delegations will find attached in Annex the revised consolidated draft Regulation on Direct Payments prepared by the Presidency.

This text shows all the changes to the proposal in ***bold and italics*** and **~~strikethrough~~**.

This text builds upon the amendments prepared by the Danish Presidency (doc. 10890/12)<sup>1</sup> and includes the following amendments prepared under the Cyprus Presidency and for which the Presidency has noted the broad support of delegations:

- on Articles 18 (Payment entitlements), 21 (First allocation of payment entitlements), 23 (Establishment and use of the national reserve) and 25 (Activation of payment entitlements) based on doc. 13206/1/12 REV 1 as adjusted to reflect the outcome of the discussion in the SCA on 17/09/2012<sup>2</sup>;
- on Article 22, paragraphs 1 to 3a (Value of payment entitlements) (doc. 14148/12), as adjusted to reflect the outcome of the Working Party on Horizontal Agricultural Questions on 6 and 12 December 2012;
- on Articles 48, 49 and 51 (Small Farmers Scheme) based on doc. 14149/1/12 REV 1 as adjusted to reflect the outcome of the discussion in the SCA on 12 November 2012<sup>3</sup>;
- on Articles 36 and 37 (payment for young farmers) (docs. 14153/12 and 15625/12);
- on the accession of Croatia together with the suggested legal adjustments (doc. 15793/12);
- on data protection (doc. 16050/2/12 REV 2), as adjusted by the Presidency in consultation with the Council Legal service on Article 53a (1)<sup>4</sup> to accommodate delegations;
- on the use of the non-opinion clause (doc. 16083/12).

Delegations are further invited to note that Articles 29 to 33 (Greening) have been adjusted to reflect the outcome of the Working Party on Horizontal Agricultural Questions on 12 December 2012 and that the text on greening is a work in progress.

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<sup>1</sup> Progress report set out in doc. 8949/12.

<sup>2</sup> Summary record doc. 13828/12.

<sup>3</sup> Summary record doc. 16117/12.

<sup>4</sup> Deletion of the word "solely".

The open political issues<sup>5</sup> including the issues identified in the Negotiating Box for Heading 2 of the Multiannual Financial Framework (MFF)<sup>6</sup>, appear in square brackets.

Delegations are further invited to note that the recitals will require to be adapted at a later stage to reflect the position of the Council.

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<sup>5</sup> See Presidency Progress Report doc. 17592/12.

<sup>6</sup> Doc. 15602/12.

**Draft**

**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**

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 42  
and Article 43(2) thereof,

Having regard to the 1979 Act of Accession, and in particular paragraph 6 of Protocol No 4 on  
cotton attached thereto,

Having regard to the proposal from the European Commission<sup>7</sup>,

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

Having regard to the opinion of the European Economic and Social Committee<sup>8</sup>,

Having regard to the opinion of the Committee of the Regions<sup>9</sup>,

Having consulted the European Data Protection Supervisor<sup>10</sup>,

Acting in accordance with the ordinary legislative procedure,

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<sup>7</sup> OJ C [...], [...], p. [...].

<sup>8</sup> OJ C [...], [...], p. [...].

<sup>9</sup> OJ C [...], [...], p. [...].

<sup>10</sup> OJ C [...], [...], p. [...].

Whereas:

- (1) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on "The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future"<sup>11</sup> sets out potential challenges, objectives and orientations for the Common Agricultural Policy (CAP) after 2013. In the light of the debate on that Communication, the CAP should be reformed with effect from 1 January 2014. That reform should cover all the main instruments of the CAP, including Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, ~~amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003~~<sup>12</sup>. In view of the scope of the reform, it is appropriate to repeal Regulation (EC) No 73/2009 and to replace it with a new text. The reform should also, as far as possible, streamline and simplify provisions.
- (2) This Regulation should contain all the basic elements pertaining to the payment of Union support to farmers and fix criteria and conditions of access to those payments which are inextricably linked to those basic elements.

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<sup>11</sup> COM(2010) 672 final, 18.11.2010.

<sup>12</sup> OJ L 30, 31.1.2009, p. 16.

(3) It should be clarified that Regulation (EU) No [...] of the European Parliament and of Council of... on the financing, management and monitoring of the common agricultural policy<sup>13</sup> [horizontal CAP Regulation: HZR] and the provisions adopted pursuant to it should apply in relation to the measures set out in this Regulation. For the sake of consistency with other legal instruments relating to the CAP, some rules currently provided for in Regulation (EC) No 73/2009, are ~~now to be~~ laid down in Regulation (EU) No [...] [HZR], in particular rules *set out in order* to guarantee compliance with the obligations laid down by direct payment provisions, including checks and the application of administrative measures and administrative penalties in case of non-compliance, rules related to cross-compliance such as the statutory management requirements, the good agricultural and environmental condition, the monitoring and evaluation of relevant measures and rules related to the recovery of undue payments.

~~(4) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt delegated acts in accordance with Article 290 of the Treaty should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.~~

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<sup>13</sup> OJ L .....

- ~~(5) — In order to ensure uniform conditions for the implementation of this Regulation and to avoid unfair competition or discrimination between farmers, implementing powers should be conferred on the Commission in respect of the fixation of the annual national ceiling for the basic payment scheme; the adoption of rules on applications for allocation of payment entitlements; the adoption of measures regarding the reversion of non-activated payment entitlements to the national reserve; the adoption of requirements related to the notification of transfer of payment entitlements to the national authorities and the deadlines within which such notification are to take place; the setting out of the annual ceiling for the payment for agricultural practises beneficial for the climate and the environment; the setting out of the annual ceiling for the payment for areas with natural constraints; the setting out of the annual ceiling for the payment for young farmers; the setting out of the annual ceilings for the voluntary coupled support; the adoption of rules on the procedure for the assessment and approval of decisions in the framework of the voluntary coupled support; the adoption of rules on the procedure of the authorisation and the notifications to the producers related to the authorisation of land and varieties for the purposes of the crop specific payment for cotton; the provision for rules on the calculation of the reduction of the amount of the crop specific payment for cotton; the adoption of rules concerning general notification requirements. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>14</sup>.~~
- ~~(6) — The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to exceptional management measures, intended to solve urgent and unforeseen problems occurring in one or more Member States, imperative grounds of urgency so require.~~

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<sup>14</sup> OJ L 55, 28.2.2011, p. 13.

- ~~(7) — The objectives of this Regulation can be achieved more efficiently at Union level through the multiannual guarantee of Union financing and by concentrating on clearly identified priorities, given the links between this Regulation and the other instruments of the CAP, the disparities between the various rural areas and the limited financial resources of the Member States in an enlarged Union. The present Regulation is therefore in line with the principle of subsidiarity as set out in Article 5(3) of the Treaty on European Union. Since the scope of this Regulation is limited to what is necessary in order to achieve its objectives, it also respects the principle of proportionality as set out in Article 5(4) of that Treaty.~~
- ~~(8) — In order to take into account new legislation on support schemes that may be adopted after the entry into force of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission for the purpose of amending the list of support schemes covered by this Regulation.~~
- ~~(9) — In order to take into account specific new elements and to guarantee the protection of the rights of beneficiaries, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission for the purpose of laying down further definitions regarding the access to support under this Regulation, establishing the framework within which Member States shall define the minimum activities to be carried out on areas naturally kept in a state suitable for grazing or cultivation as well as the criteria to be met by farmers in order to be deemed to have respected the obligation of maintaining the agricultural area in the state suitable for production and the criteria to determine the predominance of grasses and other herbaceous forage as regards permanent grassland.~~



- ~~(10) — In order to guarantee the protection of the rights of beneficiaries the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission for the purpose of adopting of rules on the basis for calculation of reductions to be applied by Member States to farmers pursuant to the application of the financial discipline.~~
- (11) With a view to ensuring that the amounts for the financing of the CAP comply with the annual ceilings referred to in Article 16(1) of Regulation (EU) No [...] [HZR], an adjustment of the level of direct support in any calendar year should be maintained. The adjustment of the direct payments should only be applied to payments to be granted to farmers in excess of EUR 5 000 in the corresponding calendar year. Taking into account the levels of direct payments for farmers in Bulgaria, *Croatia* and Romania in the framework of the application of the phasing-in mechanism to all direct payments granted in those Member States, this instrument of financial discipline should only apply in ~~those Member States~~ *Bulgaria and Romania* as from 1 January 2016 *and in Croatia as from 1 January 2022*.
- ~~(12) — In order to take account of the developments relating to the total maximum amounts of direct payments that may be granted, including those resulting from the decisions to be taken by the Member States regarding transfers between the first and second pillars, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission for the purpose of reviewing the national and net ceilings set out in this Regulation.~~
- (13) Experience from the application of the various support schemes for farmers has shown that support was in a number of cases granted to beneficiaries whose business purpose was not or only marginally targeted at an agricultural activity, such as airports, railway companies, real estate companies and companies managing sport grounds. To ensure the better targeting of support, Member States should refrain from granting direct payments to such natural and legal persons. Smaller part-time farmers contribute directly to the vitality of rural areas, for that reason they should not be prevented from being granted direct payments.

- (14) To avoid an excessive administrative burden caused by the managing of payments of small amounts, Member States should in general refrain from granting direct payments where the payment would be lower than EUR 100 or the eligible area of the holding for which support is claimed would be less than one hectare. However, as the structures of the Member States' agricultural economies vary considerably and may differ significantly from the average farm structure in the Union, Member States should be allowed to apply minimum thresholds that reflect their particular situation. Due to the very specific farming structure in the outermost regions and the smaller Aegean Islands, Member States should be able to decide whether any minimum threshold should apply in those regions. Moreover, Member States should have the possibility to opt for the implementation of one of the two types of minimum threshold taking account of the particularities of the structures of their farming sectors. As payment could be granted to farmers with so-called 'landless' holdings, the application of the hectare-based threshold would be ineffective. The support-related minimum amount should therefore apply to such farmers. To ensure equal treatment of farmers whose direct payments are subject to phasing-in in Bulgaria, *Croatia* and Romania, the minimum threshold should be based on the final amounts to be granted at the end of the phasing-in process.
- [(15) The distribution of direct income support among farmers is characterised by the allocation of disproportionate amounts of payments to a rather small number of large beneficiaries. Due to economies of size, larger beneficiaries do not require the same level of unitary support for the objective of income support to be efficiently achieved. Moreover, the potential to adapt makes it easier for larger beneficiaries to operate with lower levels of unitary support. It is therefore fair to introduce a system for large beneficiaries where the support level is gradually reduced and ultimately capped to improve the distribution of payments between farmers. Such system should however take into account salaried labour intensity to avoid disproportionate effects on large farms with high employment numbers.

Those maximum levels should not apply to payments granted to agricultural practices beneficial for the climate and the environment since the beneficial objectives they pursue could be diminished as a result. In order to make capping effective, Member States should establish some criteria in order to avoid abusive operations by farmers seeking to evade its effects. The proceeds of the reduction and capping of payments to large beneficiaries should remain in the Member States where they were generated and should be used for financing projects with a significant contribution to innovation under Regulation (EU) No [...] of the European Parliament and of the Council of...on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)<sup>15</sup> [RDR].]

- (16) [In order to facilitate the implementation of capping, notably with regard to the procedures for granting direct payments to farmers and the corresponding transfers to rural development,] net ceilings should be determined for each Member State to limit the payments to be made to farmers [following the application of capping]. To take into account the specificities of CAP support granted in accordance with Council Regulation (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union<sup>16</sup> and Council Regulation (EC) No 1405/2006 of 18 September 2006 laying down specific measures for agriculture in favour of the smaller Aegean islands ~~and amending Regulation (EC) No 1782/2003~~<sup>17</sup>, [and the fact that these direct payments are not subject to capping,] the net ceiling for the Member States concerned should not include those direct payments.
- (17) It should be specified that the provisions of this Regulation which could give rise to behaviour of a Member State possibly constitutive of State aid are excluded from the application of the State aid rules given that the provisions concerned include appropriate conditions for the granting of support, or envisage the adoption of such conditions by the Commission, in order to prevent undue distortion of competition.

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<sup>15</sup> OJ L [...], [...], p. [...].

<sup>16</sup> OJ L 42, 14.2.2006, p. 1.

<sup>17</sup> OJ L 265, 26.9.2006, p. 1.

- (18) In order to achieve the objectives of the CAP, the support schemes may need to be adapted to changing developments, if necessary within short time-limits. Therefore, it is necessary to provide for a possible review of the schemes, in particular in the light of economic developments or the budgetary situation, implying that beneficiaries cannot rely on support conditions remaining unchanged.
- (19) Farmers in Member States which acceded to the ~~European~~ Union on or after 1 May 2004 received direct payments following a phasing-in mechanism provided for in the respective Acts of Accession. For Bulgaria and Romania, such mechanism will be still in force in 2014 and 2015, *and for Croatia, until 2022*. Furthermore, those Member States were allowed to grant complementary national direct payments. The possibility for granting such payments should be maintained for Bulgaria, *Croatia* and Romania until they are fully phased-in.
- (19a) Regulation (EC) No 73/2009 as amended by the Act of Accession of 2011 provides for a special national de-mining reserve for Croatia in order to finance, for a period of ten years after the accession to the Union, the allocation of payment entitlements to land which will be de-mined and returned to agricultural use every year. It is appropriate to set the rules for determining the amounts dedicated to funding support for that land under the support schemes provided for in this Regulation and for the management of that reserve.*

- (20) In order to ensure a better distribution of support amongst agricultural land in the Union, including in those Member States which applied the single area payment scheme established under Regulation (EC) No 73/2009, a new basic payment scheme should replace the single payment scheme established under Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers<sup>18</sup>, and continued under Regulation (EC) No 73/2009, which combined previously existing support mechanisms into a single scheme of decoupled direct payments. Such a move should entail the expiry of payment entitlements obtained under those Regulations and the allocation of new ones, although still based on the number of eligible hectares at the disposal of farmers in the first year of implementation of the scheme.
- (21) Due to the successive integration of various sectors into the single payment scheme and the ensuing period of adjustment granted to farmers, it has become increasingly difficult to justify the presence of significant individual differences in the level of support per hectare resulting from use of historical references. Therefore direct income support should be more equitably distributed between Member States, by reducing the link to historical references and having regard to the overall context of the Union budget. To ensure a more equal distribution of direct support, while taking account of the differences that still exist [in wage levels and input costs,] the levels of direct support per hectare should be progressively adjusted. Member States with direct payments below the level of [90 %] of the average should close [one third] of the gap between their current level and this level. [This convergence should be financed proportionally by all Member States with direct payments above the Union average.] In addition, all payment entitlements activated in 2019 in a Member State or in a region should have a uniform unit value following a convergence towards this value that should take place during the transition period in linear steps.

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<sup>18</sup> OJ L 270, 21.10.2003, p. 1. Regulation repealed and replaced by Regulation (EC) No 73/2009.

- (21a)** However, in order to avoid disruptive financial consequences for farmers, Member States having used the single payment scheme, and in particular the historical model, should be allowed to partially take historical factors into account when calculating the value of payment entitlements in the first year of application of the new scheme. [The debate on the next ~~m~~**M**ultiannual ~~f~~**F**inancial ~~f~~**F**ramework for the period starting in 2021 should also focus on the objective of complete convergence through the equal distribution of direct support across the ~~European~~**E**uropean Union during that period.]
- (22) The experience gained with the application of the single payment scheme shows that some of its main elements should be kept, including the determination of national ceilings to ensure that the total level of support does not exceed current budgetary constraints. Member States should also continue to operate a national reserve that should be used to facilitate the participation of young new farmers in the scheme or may be used to take account of specific needs in certain regions. Rules on the transfer and use of payment entitlements should be kept but, where possible, simplified.

~~(23) — In order to guarantee the protection of the rights of beneficiaries and in order to clarify the specific situations that may arise in the application of the basic payment scheme, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission for the purpose of adopting rules on eligibility and the access in respect of the basic payment scheme of farmers in case of inheritance and anticipated inheritance, inheritance under a lease, change of legal status or denomination and in the case of merger or scission of the holding; adopting rules on the calculation of the value and number or on the increase in the value of payment entitlements in relation to the allocation of payment entitlements, including rules on the possibility of a provisional value and number or of a provisional increase of payment entitlements allocated on the basis of the application from the farmer, on the conditions for establishing the provisional and definitive value and number of the payment entitlements and on the cases where a sale or lease contract could affect the allocation of payment entitlements; adopting rules on the establishment and calculation of the value and number of payment entitlements received from the national reserve; adopting rules on the modification of the unit value of payment entitlements in the case of fractions of payment entitlements and criteria for the allocation of payment entitlements pursuant to the use of the national reserve and to farmers who did not apply for support in 2011.~~

~~(24) — In order to ensure the proper management of payment entitlements, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission for the purpose of adopting rules on the declaration and activation of payment entitlements.~~

- (25) As regards hemp, specific measures should be kept to ensure that illegal crops cannot be hidden among the crops eligible for the basic payment, thereby adversely affecting the common market organisation for hemp. Hence, payments should continue to be granted only for areas sown to varieties of hemp offering certain guarantees with regard to the psychotropic substance content. ~~In order to preserve public health, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission for the purpose of adopting rules making the granting of payments conditional upon the use of certified seeds of certain hemp varieties and defining the procedure for the determination of hemp varieties and the verification of their tetrahydrocannabinol content.~~
- (26) One of the objectives of the new CAP is the enhancement of environmental performance through a mandatory "greening" component of direct payments which will support agricultural practices beneficial for the climate and the environment applicable throughout the Union. For that purpose, Member States should use part of their national ceilings for direct payments to grant an annual payment, on top of the basic payment, for compulsory practices to be followed by farmers addressing, as a priority, both climate and environment policy goals. Those practices should take the form of simple, generalised, non-contractual and annual actions that go beyond cross-compliance and are linked to agriculture such as crop diversification, maintenance of permanent grassland and ecological focus areas. The compulsory nature of those practices should also concern farmers whose holdings are fully or partly situated in "Natura 2000" areas covered by Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora<sup>19</sup> and by Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds<sup>20</sup>, as long as these practices are compatible with the objectives of those Directives.

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<sup>19</sup> OJ L 206, 22.7.1992, p. 7.

<sup>20</sup> OJ L 20, 26.1.2010, p. 7.



(26a) Farmers who fulfil the conditions laid down in Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products ~~and repealing Regulation (EEC) No 2092/91~~<sup>21</sup> should benefit from the "greening" component without fulfilling any further obligation, given the recognised environmental benefits of the organic farming systems. Non-respect of the "greening" component should lead to penalties on the basis of Article 65 of Regulation (EU) No [...] [HZR].

~~(27) — In order to ensure that the obligations referred to the crop diversification measure are applied in a proportionate and non-discriminatory way and lead to an enhanced environmental protection, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission for the purpose of the adoption of the definition of 'crop' and of rules concerning the application of the measure.~~

~~(28) — In order to ensure that the land under permanent grassland is maintained as such by the farmers, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission for the purpose of the adoption of rules concerning the application of the measure.~~

~~(29) — In order to ensure the implementation of the ecological focus area measure in an efficient and coherent way, while taking into account Member States' specificities, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission for the purpose of the further definition of the types of ecological focus areas mentioned under that measure and the addition and definition of other types of ecological focus areas that can be taken into account for the respect of the percentage referred to in that measure.~~

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<sup>21</sup> OJ L 189, 20.7.2007, p. 1.

- (30) In order to promote the sustainable development of agriculture in areas with specific natural constraints, Member States should be able to use part of their national ceilings for direct payments to grant an annual area-based payment, on top of the basic payment, to all farmers operating in such areas. That payment should not replace the support given under rural development programmes and should not be granted to farmers in areas which were designated in accordance with Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)<sup>22</sup> but have not been designated in accordance with Article 46(1) of Regulation (EU) No [...] ~~of the European Parliament and of the Council of .... on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)~~<sup>23</sup> [RDR].
- (31) The creation and development of new economic activity in the agricultural sector by young farmers is financially challenging and constitutes an element that should be considered in the allocation and targeting of direct payments. This development is essential for the competitiveness of the agricultural sector in the Union and, for that reason, an income support to young farmers commencing their agricultural activities should be established in order to facilitate the initial establishment of young farmers and the structural adjustment of their holdings after the initial setting up. Member States should be able to use part of their national ceilings for direct payments to grant an annual area-based payment, on top of the basic payment, to young farmers. That payment should only be granted during a period of maximum five years, since it should only cover the initial period of the life of the business and should not become an operating aid.

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<sup>22</sup> OJ L 277, 21.10.2005, p.1. Regulation repealed and replaced by Regulation (EU) No...[RDR]  
<sup>23</sup> OJ L.....

~~(32) In order to guarantee the protection of the rights of beneficiaries and to avoid discrimination among them, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission for the purpose of defining the conditions under which a legal person may be considered eligible for receiving the payment for young farmers, in particular the application of the age limit to one or more natural persons participating in the legal person.~~

(33) Member States should be allowed to use part of their national ceilings for direct payments for coupled support in certain sectors in clearly defined cases. The resources that may be used for any coupled support should be limited to an appropriate level, while allowing such support to be granted in Member States or in their specific regions facing particular situations where specific types of farming or specific agricultural sectors are particularly important for economic, environmental and/or social reasons. Member States should be allowed to use up to 5 % of their national ceilings for this support, or 10 % in case their level of coupled support in at least one of the years of the period 2010-2013 exceeded 5 %. However, in duly justified cases where certain sensitive needs in a region are demonstrated, and upon approval by the Commission, Member States should be allowed to use more than 10 % of their national ceiling. Coupled support should only be granted to the extent necessary to create an incentive to maintain current levels of production in those regions. This support should also be available to farmers holding, on 31 December 2013, special payment entitlements allocated under Regulation (EC) No 1782/2003 and Regulation (EC) No 73/2009 and who do not have eligible hectares for the activation of payment entitlements. As regards the approval of voluntary coupled support exceeding 10 % of the annual national ceiling fixed per Member State, the Commission should further be empowered to adopt implementing acts without applying Regulation (EU) No 182/2011.

- ~~(34) — In order to ensure efficient and targeted use of Union funds and to avoid double funding under other similar support instruments, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission for the purpose of defining the adoption of rules concerning the conditions for granting voluntary coupled support and of rules on its consistency with other Union measures and on the cumulation of support.~~
- (35) ~~As regards~~ *A part of* support to the cotton sector, *under* Regulation (EC) No 73/2009 ~~considered necessary that part of it~~ continued to be linked to the cultivation of cotton through a crop specific payment per eligible hectare to ensure against any risk of disruption to production in the cotton producing regions, taking into account all factors that influence this choice. This choice should be maintained in accordance with the objectives set out in Protocol No 4 on cotton attached to the 1979 Act of Accession.
- ~~(36) — In order to enable the efficient application of the crop specific payment for cotton, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission for the purpose of the adoption of rules and conditions for the authorisation of land and varieties as regards the crop specific payment for cotton and of rules on the conditions for the granting of that specific payment, on the eligibility requirements and the agronomic practices, on criteria for the approval of inter-branch organisations, on obligations for producers and on the situation where the approved inter-branch organisation does not respect those criteria.~~

(37) Chapter 2 of Council Regulation (EC) No 637/2008 of 23 June 2008 amending Regulation (EC) No 1782/2003 and establishing national restructuring programmes for the cotton sector<sup>24</sup> provided that each cotton producing Member State has *to submit to the Commission*, either every four years and for the first time by 1 January 2009, ~~to submit to the Commission~~ a draft four-year restructuring programme, or ~~submit to the Commission~~, by 31 December 2009, a single draft modified restructuring programme for a duration of eight years. Experience has shown that the restructuring of the cotton sector would be better served through other measures, including those under rural development programming financed under Regulation (EU) No [...] [RDR], which would also allow for a greater co-ordination with measures in other sectors. However, the acquired rights and legitimate expectations of undertakings already involved in restructuring programmes should be respected. Therefore the ongoing programmes of four or eight years should be allowed to continue to their end. At the end of that period, however, the programmes should end. The funds available from the four-year programmes could then be integrated into the available Union funds for measures under rural development from 2014. The funds available after the end of the eight year programmes would not be useful in rural development programmes in 2018 given the programming period and could therefore be more usefully transferred to support schemes under this Regulation, as already provided for in the second sub-paragraph of Article 5(2) of Regulation (EC) No 637/2008. Regulation (EC) No 637/2008 will therefore become obsolete from 1 January 2014 or 1 January 2018 as regards Member States which have, respectively, four or eight-year programmes. Regulation (EC) No 637/2008 should therefore be repealed.

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<sup>24</sup> OJ L 178, 5.7.2008, p. 1.

- (38) A simple and specific scheme for small farmers should be put in place in order to reduce the administrative costs linked to the management and control of direct support. For that purpose, a lump-sum payment replacing all direct payments should be established. Rules ~~seeking simplification of~~ formalities should be introduced by reducing, amongst others, the obligations imposed on small farmers such as those related to the application for support, to agricultural practices beneficial for the climate and the environment, to cross-compliance and to controls as laid down in Regulation (EU) No [...] [HZR] without endangering the achievement of the overall objectives of the reform, it being understood that Union legislation as referred to in Annex II to Regulation (EU) No [...] [HZR] applies to small farmers. The objective of that scheme should be to support the existing agricultural structure of small farms in the Union without countering the development towards more competitive structures. For that reason, access to the scheme should be limited to existing holdings.
- ~~(39) In order to protect the rights of the farmers, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission for the purpose of the adoption of rules concerning participation in the small farmers scheme where the situation of the participating farmer changes.~~
- (40) In the interest of simplification and to take into account the specific situation of the outermost regions, direct payments in those regions should be managed within the support programmes established by Regulation (EC) No 247/2006. As a consequence, provisions in this Regulation relating to the basic payment scheme and related payments and to coupled support should not apply to those regions.

- (41) Notifications are needed from Member States for the purpose of applying this Regulation, and for the purpose of monitoring, analysing and managing direct payments. ~~In order to ensure the good application of the rules contained in this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission for the purpose of the adoption of the necessary measures regarding notifications to be made by Member States or for the purpose of checking, controlling, monitoring, evaluating and auditing direct payments, implementing international agreements, including notification requirements under those agreements and of rules laying down the nature and type of the information to be notified, on the methods of notification and on the access rights to the information or information systems and the conditions and means of publication of the information.~~
- (42) Union legislation concerning the protection of individuals with regard to the processing of personal data and on the free movement of such data, in particular Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>25</sup> and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>26</sup> ~~are is~~ applicable.<sup>27</sup>
- (43) With a view to strengthening their rural development policy, Member States should be given the possibility to transfer funds from their direct payments ceiling to their support assigned for rural development. At the same time, Member States [where the level of direct support remains lower than [90 %] of the Union average level of support] should be given the possibility to transfer funds from their support assigned for rural development to their direct payments ceiling. Such choices should be made, within certain limits, once and for the whole period of application of this Regulation.

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<sup>25</sup> OJ L 281, 23.11.1995, p.31.

<sup>26</sup> OJ L 8, 12.1.2001, p. 1.

<sup>27</sup> Recital to be adjusted to clarify the continued possibility to process data for other aid schemes.

~~(44) In order to ensure a smooth transition from the arrangements provided for in Regulation (EC) No 73/2009 to those laid down in this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission for the purpose of adopting the necessary measures to protect the acquired rights and legitimate expectations of farmers,~~

(445) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt delegated acts in accordance with Article 290 of the Treaty should be delegated to the Commission. *The objective, content and scope of each delegation is set out in detail in the relevant Articles.* It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and *the* Council.



(546) In order to ensure uniform conditions for the implementation of this Regulation and to avoid unfair competition or discrimination between farmers, implementing powers should be conferred on the Commission in respect of: ***the authorisation of complementary national direct payments for Croatia; the setting of the amount to be included in the special national de-mining reserve for Croatia;*** the fixation of the annual national ceiling for the basic payment scheme; the adoption of rules on applications for allocation of payment entitlements; the adoption of measures regarding the reversion of non-activated payment entitlements to the national reserve; the adoption of requirements related to the notification of transfer of payment entitlements to the national authorities and the deadlines within which such notification are to take place; the setting out of the annual ceiling for the payment for agricultural practices beneficial for the climate and the environment; the setting out of the annual ceiling for the payment for areas with natural constraints; the setting out of the annual ceiling for the payment for young farmers; the setting out of the annual ceilings for the voluntary coupled support; the adoption of rules on the procedure for the assessment and approval of decisions in the framework of the voluntary coupled support; the adoption of rules on the procedure of the authorisation and the notifications to the producers related to the authorisation of land and varieties for the purposes of the crop specific payment for cotton; the provision for rules on the calculation of the reduction of the amount of the crop specific payment for cotton; the adoption of rules concerning general notification requirements; ***and the adoption of necessary and justifiable measures to resolve specific problems in an emergency.*** Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>28</sup>.

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<sup>28</sup> OJ L 55, 28.2.2011, p. 13.

**(476) In order to solve urgent and unforeseen problems occurring in one or more Member States while ensuring the continuity of the direct payments system, the Commission should adopt immediately applicable implementing acts where, in duly justified cases, extraordinary circumstances affect the granting of support and jeopardise the effective implementation of the payments under the support schemes listed in this Regulation.**

**(748) Since ~~t~~The objectives of this Regulation cannot be sufficiently achieved by the Member States acting alone and can be achieved more efficiently at Union level therefore be better achieved at Union level through the multiannual guarantee of Union financing and by concentrating on clearly identified priorities, given the links between this Regulation and the other instruments of the CAP, the disparities between the various rural areas and the limited financial resources of the Member States in an enlarged Union, the Union may adopt measures, ~~The present Regulation is therefore~~, in ~~line~~ accordance with the principle of subsidiarity as set out in Article 5~~(3)~~ of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives. Since the scope of this Regulation is limited to what is necessary in order to achieve its objectives, it also respects the principle of proportionality as set out in Article 5~~(4)~~ of that Treaty.**

HAVE ADOPTED THIS REGULATION:

TITLE I  
SCOPE AND DEFINITIONS

*Article 1*  
**Scope**

This Regulation establishes:

- (a) common rules on payments granted directly to farmers under the support schemes listed in Annex I (hereinafter referred to as "direct payments");
- (b) specific rules concerning:
  - (i) a basic payment for farmers (hereinafter referred to as the "basic payment scheme");
  - (ii) a payment for farmers observing agricultural practices beneficial for the climate and the environment;
  - (iii) a voluntary payment for farmers in areas under natural constraints;
  - (iv) a payment for young farmers who commence their agricultural activity;
  - (v) a voluntary coupled support scheme;
  - (vi) a crop specific payment for cotton;
  - (vii) a simplified scheme for small farmers;
  - (viii) a framework to enable Bulgaria, *Croatia* and Romania to complement direct payments.

*Article 2*  
**Amendment of Annex I**

*In order to ensure legal certainty, ~~the~~ the Commission shall be empowered to adopt delegated acts in accordance with Article 55 ~~for the purpose of amending~~ concerning the amendment of the list of support schemes set out in Annex I, to the extent necessary to take into account new legislative acts on support schemes which may be adopted after the entry into force of this Regulation.*

### Article 3

#### **Application to the outermost regions and the smaller Aegean islands**

Article 11 shall not apply to the regions of the Union referred to in Article 349 of the ~~Treaty TFEU~~, (hereinafter referred to as "outermost regions") and to the direct payments granted in the smaller Aegean islands in accordance with Regulation (EC) No 1405/2006.

Titles III, IV and V shall not apply to the outermost regions.

### Article 4

#### **Definitions**

1. For the purposes of this Regulation, the following definitions shall apply:
  - (a) "farmer" means a natural or legal person, or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, whose holding is situated within the Union territory, as defined in Article 52 ~~Treaty on European Union TEU~~ in conjunction with Articles 349 and 355 of the ~~Treaty on the Functioning of the European Union TFEU~~, and who exercises an agricultural activity;
  - (b) "holding" means all the units used for agricultural activities and managed by a farmer situated within the territory of the same Member State;
  - (c) "agricultural activity" means:
    - rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes,
    - maintaining the agricultural area in a state which makes it suitable for grazing or cultivation without any particular preparatory action going beyond **traditional usual** agricultural methods and machineries, **based on criteria to be defined by Member States on the basis of a framework established by the Commission**, or
    - carrying out a minimum activity, to be established by Member States, on agricultural areas naturally kept in a state suitable for grazing or cultivation;

- (d) "agricultural products" means the products listed in Annex I to the ~~Treaty~~ **TEU and the TFEU**, with the exception of fishery products, as well as cotton;
- (e) "agricultural area" means any area taken up by arable land, permanent grassland or permanent crops;
- (f) "arable land" means land cultivated for crop production or areas available for crop production but laying fallow, including areas set aside in accordance with Articles 22, 23 and 24 of Regulation (EC) No 1257/1999, with Article 39 of Regulation (EC) No 1698/2005 and with Article 29 of Regulation (EU) No [...] [RDR], irrespective of whether or not that land is under greenhouses or under fixed or mobile cover; **Member States may decide, however, that land under greenhouses is not eligible as arable land;**
- (g) "permanent crops" means non-rotational crops other than permanent grassland that occupy the land for five years or longer and yield repeated harvests, including nurseries, and short rotation coppice;
- (h) "permanent grassland" means land used to grow grasses or other herbaceous forage naturally (self-seeded) or through cultivation (sown) and that has not been included in the crop rotation of the holding for five years or longer; it may include other species ~~suitable for grazing~~ **which can be grazed** provided that the grasses and other herbaceous forage remain predominant; **Member States may decide to include land which can be grazed and which forms part of established local practices where grasses and other herbaceous forage are traditionally not predominant in grazing areas;**
- (i) "grasses or other herbaceous forage" means all herbaceous plants traditionally found in natural pastures or normally included in mixtures of seeds for pastures or meadows in the Member State, (whether or not used for grazing animals);
- (j) "nurseries" means the following areas of young ligneous (woody) plants grown in the open air for subsequent transplantation:
- vine and root-stock nurseries;
  - fruit tree and berries nurseries;
  - ornamental nurseries;

- commercial nurseries of forest trees (excluding those for the holding's own requirements grown within woodland);
  - trees and bushes for planting in gardens, parks, at the roadside and on embankments (e.g. hedgerow plants, rose trees and other ornamental bushes, ornamental conifers), including in all cases their stocks and young seedlings;
- (k) "short rotation coppice" means areas planted with tree species of CN code 06 02 9041 to be defined by Member States that consist of woody, perennial crops, the rootstock or stools remaining in the ground after harvesting, with new shoots emerging in the following season and with a maximum harvest cycle to be determined by the Member States;
- (l) *"sale" means the sale or any other definitive transfer of ownership of land or payment entitlements; it does not include the sale of land where land is transferred to public authorities and/or for use in the public interest and in either case the transfer is carried out for non-agricultural purposes;*
- (m) *"lease" means lease or similar types of temporary transactions.*
2. *In order to ensure legal certainty, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 ~~establishing for the purposes of:~~*
- ~~(a) laying down further definitions regarding the access to support under this Regulation;~~
  - (aa) the framework within which Member States shall define the criteria to be met by farmers in order to fulfil the obligation to maintain the agricultural area in a state suitable for grazing or cultivation as referred to in point (c) of paragraph 1;*
  - (b) ~~establishing~~ the framework within which Member States shall define the minimum activities to be carried out on areas naturally kept in a state suitable for grazing or cultivation;
  - ~~(c) establishing the criteria to be met by farmers in order to be deemed to have respected the obligation of maintaining the agricultural area in a state suitable for grazing or cultivation as referred to in point (c) of paragraph 1;~~

- (d) ~~establishing~~ the criteria to determine the predominance of grasses and other herbaceous forage *and the criteria to determine the established local practices referred to in* ~~for the purpose of~~ point (h) of paragraph 1.

TITLE II  
GENERAL PROVISIONS ON DIRECT PAYMENTS

CHAPTER 1  
COMMON RULES ON DIRECT PAYMENTS

*Article 5*

**Financing of direct payments**

The support schemes listed in Annex I to this Regulation shall be financed in accordance with Article 4(1)(b) of Regulation (EU) No [...] [HZR].

*Article 6*

**National ceilings**

1. For each Member State and each year, the national ceiling comprising the total value of all allocated entitlements, of the national reserve and of the ceilings fixed in accordance with Articles 33, 35, 37 and 39 shall be as set out in Annex II.
  
2. In order to take account of the developments relating to the total maximum amounts of direct payments that may be granted, including those resulting from the decisions to be taken by the Member States in accordance with Article 14 **and those resulting from the application of the second paragraph of Article 17b**, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 ~~for the purpose of reviewing~~ the national ceilings set out in Annex II.



## Article 7

### Net ceilings

1. Without prejudice to Article 8, the total amount of direct payments which may be granted in a Member State pursuant to Titles III, IV and V in respect of a calendar year, after application of Article 11, shall not be higher than the ceilings set out in Annex III to this Regulation.  
**~~In order to avoid that~~Where** the total amount of direct payments ***to be granted would be*** **is** higher than the ceilings set out in Annex III, Member States shall make a linear reduction in the amounts of all direct payments with the exception of direct payments granted under Regulations (EC) No 247/2006 and (EC) No 1405/2006.
- [2. For each Member State and each year, the estimated product of capping as referred to in Article 11, which is reflected by the difference between the national ceilings set out in Annex II, to which is added the amount available in accordance with Article 44, and the net ceilings set out in Annex III, is made available as Union support for measures under rural development programming financed under the EAFRD as specified in Regulation (EU) No [...] [RDR].]
3. ***In order to take account of the developments relating to the total maximum amounts of direct payments that may be granted, including those resulting from the decisions taken by the Member States in accordance with Article 14,*** ~~the~~ Commission shall be empowered to adopt delegated acts in accordance with Article 55 **~~for the purpose of~~** reviewing the ceilings set out in Annex III.

## Article 8

### Financial discipline

1. The adjustment rate determined in accordance with Article 25 of Regulation (EU) No [...] [HZR] shall only apply to direct payments in excess of EUR 5 000 to be granted to farmers in the corresponding calendar year.

2. ~~In the framework of the gradual introduction of direct payments as provided for in Article 16, p~~ Paragraph 1 of this Article shall apply to Bulgaria and Romania as from 1 January 2016, *following the gradual introduction of direct payments provided for in Article 16, and to Croatia as from 1 January 2022, following the gradual introduction of direct payments provided for in Article 16a.*
3. *In order to ensure the correct application of the adjustments of direct payments with respect to financial discipline,* ~~t~~The Commission shall be empowered to adopt delegated acts in accordance with Article 55 ~~concerning laying down~~ rules on the basis for calculation of reductions to be applied by Member States to farmers pursuant to paragraphs 1 ~~and 2~~ of this Article.

#### *Article 9*

#### **Active farmer**

1. No direct payments shall be granted to natural or legal persons, or to groups of natural or legal persons, ~~in cases where one of the following applies:~~
- ~~(a) — the annual amount of direct payments is less than 5 % of the total receipts they obtained from non-agricultural activities in the most recent fiscal year; or~~
  - ~~(b) — their whose agricultural areas are mainly areas naturally kept in a state suitable for grazing or cultivation and they who do not carry out on those areas the minimum activity established by Member States in accordance with Article 4(1)(c).~~
- ~~2. — Paragraph 1 shall not apply to farmers who received less than EUR 5 000 of direct payments for the previous year.~~

3. *In order to guarantee the protection of the rights of farmers,* ~~the~~ The Commission shall be empowered to adopt delegated acts in accordance with Article 55 ~~for the purposes of~~ laying down:
- ~~(a) — criteria to establish the amount of direct payments relevant for the purpose of paragraphs 1 and 2, in particular in the first year of allocation of payment entitlements where the value of the payment entitlements is not yet definitively established as well as for new farmers;~~
  - ~~(b) — exceptions from the rule that the receipts during the most recent fiscal year are to be taken into account where those figures are not available; and~~
  - (c) criteria to establish *the cases* where ~~a~~ a farmer's agricultural area is to be considered as mainly *an* areas naturally kept in a state suitable for grazing or cultivation;
  - ~~(cc) — criteria to establish the distinction between receipts resulting from agricultural and non-agricultural activities, and the amount of direct payments relevant for the purpose of paragraph 4, in particular in the first year of allocation of payment entitlements where the value of the payment entitlements is not yet definitively established, as well as for new farmers;~~
  - ~~(cd) — exceptions from the rule that the receipts during the most recent fiscal year are to be taken into account where those figures are not available.~~

- 4. Member States may decide that no direct payments shall be granted to public legal persons such as States, regional and local authorities, or to natural or legal persons, or to groups of natural or legal persons, in one of the following situations:**
- a) the persons concerned operate airports, railway companies, waterworks, real estate companies, sport and recreational grounds, hunting estates, fishing and aquaculture estates, camping sites, or any other like non-agricultural businesses or activities to be defined, where appropriate, by Member States on the basis of objective and non-discriminatory criteria, unless those persons can provide verifiable evidence, in accordance with prescriptions to be established by Member States, demonstrating that the annual amount of direct payments is at least 5 % of the total receipts they obtained from non-agricultural activities in the most recent fiscal year for which such evidence is available, or**
- b) the persons concerned satisfy objective and non-discriminatory criteria established by Member States which ensure that:**
- (i) their agricultural activities form only an insignificant part of their overall economic activities, or**
  - (ii) their principal activity or company objects does not consist in exercising an agricultural activity.**
- 4a. Member States may decide not to apply paragraph 4 to farmers who received no more than EUR 5 000 of direct payments for the previous year.**

*Article 10*

**Minimum requirements for receiving direct payments**

1. Member States shall decide not to grant direct payments to a farmer in one of the following cases:
  - (a) where the total amount of direct payments claimed or due to be granted before the reductions and exclusions provided for in Article 65 of Regulation (EU) No [...] [HZR] in a given calendar year is less than EUR 100;
  - (b) where the eligible area of the holding for which direct payments are claimed or due to be granted before the reductions and exclusions provided for in Article 65 of Regulation (EU) No [...] [HZR] is less than one hectare.

In order to take account of the structure of their agricultural economies, Member States may adjust the thresholds ~~referred to~~ *set out* in points (a) and (b) within the limits set out in Annex IV.

2. ~~Where farmers receiving the animal-related coupled support referred to in Title IV hold fewer hectares than the~~ *A Member State which has decided to apply an area threshold selected by a Member State for the purposes of* under point (b) of paragraph 1, ~~that Member State~~ shall *nevertheless* apply point (a) of *that* paragraph *to those farmers receiving the animal-related coupled support referred to in Title IV who hold fewer hectares than the area threshold.*
3. The Member States concerned may decide not to apply paragraph 1 in the outermost regions and in the smaller Aegean Islands.

4. In Bulgaria and Romania, for the years 2014 and 2015, the amount claimed or due to be granted as referred to in paragraph 1 shall be calculated on the basis of the amount set out in *point A of Annex V* ~~·A~~ for the corresponding year. ***In Croatia, for the years 2014-2021, the amount claimed or due to be granted as referred to in paragraph 1 shall be calculated on the basis of the amount set out in point A of Annex Va.***

[Article 11

**Progressive reduction and capping of the payment**

1. The amount of direct payments to be granted to a farmer under this Regulation in a given calendar year [shall] be reduced as follows:
  - by 20 % for the tranche of more than EUR 150 000 and up to EUR 200 000;
  - by 40 % for the tranche of more than EUR 200 000 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. The amount referred to in paragraph 1 shall be calculated by subtracting the salaries effectively paid and declared by the farmer in the previous year, including taxes and social contributions related to employment, from the total amount 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.
  
3. ***No advantage by means of avoiding progressive reduction and/or capping of the*** ~~Member States shall ensure that no~~ ***payment shall be granted in favour of is made to*** farmers ***in respect of for*** whom it is established that, as from ***19 October 2011*** ~~the date of publication of the Commission proposal for this Regulation~~, they artificially created the conditions to avoid the effects of this Article.]

*Article 12*

**Multiple claims**

The area corresponding to the number of eligible hectares in respect of which an application for a basic payment has been submitted by a farmer pursuant to Chapter 1 of Title III may be the subject of an application for any other direct payment as well as for any other aid not covered by this Regulation, save as explicitly provided otherwise in this Regulation.

*Article 13*

**State aid**

By way of derogation from Article 146(1) of Regulation [sCMO], Articles 107, 108 and 109 of the ~~TFEU~~~~reaty~~ shall not apply to payments made by Member States ~~pursuant to and~~ in conformity with this Regulation.

*Article 14*

**Flexibility between pillars**

1. Before 1 August 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 %] 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 decisions referred to in the first subparagraph shall be notified to the Commission by ~~the date referred to in that subparagraph~~ **1 August 2013**.

The percentage notified in accordance with the second subparagraph shall be the same for *calendar years 2014 to 2019* ~~the years referred to in the first subparagraph~~.

2. Before 1 August 2013, [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 [5 %] 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 subparagraph shall be notified to the Commission by ~~the date referred to in that subparagraph~~ **1 August 2013**.

The percentage notified in accordance with the second subparagraph shall be the same for *calendar years 2014 to 2019* ~~the years referred to in the first subparagraph of paragraph 1~~.



*Article 15*

**Review**

Support schemes listed in Annex I shall apply without prejudice to a possible review at any time **by a legislative act**, in the light of economic developments and the budgetary situation.

CHAPTER 2  
PROVISIONS APPLYING TO BULGARIA, **CROATIA** AND ROMANIA

*Article 16*

**Gradual introduction of direct payments *in Bulgaria and Romania***

In Bulgaria and Romania, the national ceilings for payments referred to in Articles 33, 35, 37, 39 and 51 shall in 2014 and 2015 be established on the basis of the amounts set out *in point A of Annex V.A.*

*Article 16a*

***Gradual introduction of direct payments in Croatia***

***In Croatia, direct payments shall be introduced in accordance with the following schedule of increments expressed as a percentage of the corresponding level of the direct payments as applied from 2022:***

***25 % in 2013,***

***30 % in 2014,***

***35 % in 2015,***

***40 % in 2016,***

***50 % in 2017,***

***60 % in 2018,***

***70 % in 2019,***

***80 % in 2020,***

***90 % in 2021,***

***100 % as from 2022.***

## *Article 17*

### **Complementary national direct payments and direct payments *in Bulgaria and Romania***

1. In 2014 and 2015, Bulgaria and Romania may use national direct payments in order to complement payments granted under the basic payment scheme referred to in Chapter 1 of Title III and, in the case of Bulgaria, also to complement payments granted under the crop specific payment for cotton referred to in Chapter 2 of Title IV.
2. The total amount of complementary national direct payments to the basic payment scheme which may be granted in respect of 2014 and 2015 shall not exceed the amounts set out in ***point B of Annex V-B*** for each of those years.
3. For Bulgaria, the total amount of complementary national direct payments to the crop specific payment for cotton ***which may be granted in respect of 2014 and 2015*** shall not exceed the amounts set out in ***point C of Annex V €*** for each of ***those years*** ~~referred to in that Annex.~~
4. Complementary national direct payments shall be granted in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions.

## *Article 17a*

### ***Complementary national direct payments for Croatia***

1. ***Croatia may complement, subject to authorisation by the Commission, any of the support schemes listed in Annex I, where relevant.***

2. *The complementary amount which may be granted in a given year and for a given support scheme shall be limited by a specific financial envelope. This envelope shall be established as the difference between:*
  - (a) *the amount of direct support available per support scheme concerned after the full introduction of direct payments in accordance with Article 16a for the calendar year 2022*
  - and*
  - (b) *the amount of direct support available per support scheme concerned after the application of the schedule of increments in accordance with Article 16a in the year concerned.*
3. *The total amount of complementary national direct payments granted shall not be higher than the ceiling set out in point B of Annex Va for a corresponding calendar year.*
4. *Croatia may decide, on the basis of objective criteria and after authorisation by the Commission, on the amounts of complementary national aid to be granted.*
5. *The authorisation by the Commission shall specify the relevant support schemes and define the level up to which the complementary national direct payments may be paid.*

*As regards complementary national direct payments intended to complement the voluntary coupled support referred to in Chapter 1 of Title IV, the authorisation shall also specify the specific types of farming or the specific agricultural sectors referred to in Article 38(2) to which the complementary national direct payments may relate.*

*The authorisation shall be given by means of an implementing act adopted without applying the procedure referred to in Article 56(2) or (3).*

6. *The eligibility conditions for complementary national direct payments shall be those for support under corresponding support schemes as laid down in this Regulation.*

7. *The complementary national direct payments shall be subject to any adjustments which may be rendered necessary by developments in the Common Agricultural Policy. They shall be granted in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions.*
  
8. *Croatia shall submit a report providing information on the measures for the implementation of the complementary national direct payments before 30 June of the year following their implementation. The report shall cover at least the following:*
  - (a) *any changes in the situation affecting the complementary national direct payments;*
  - (b) *for each complementary national direct payment, the numbers of beneficiaries, the total amount of complementary national aid granted, as well as the hectares, the number of animals or other units for which the aid has been granted;*
  - (c) *a report on control measures applied in relation to the complementary national direct payments granted.*

#### *Article 17b*

##### *Special national de-mining reserve for Croatia*

1. *From 2014 onwards, Croatia shall notify the Commission no later than 31 January every year of the areas which have been identified in accordance with Article 57a(10) of Regulation (EC) No 73/2009 and which were returned to use for agricultural activities in the previous calendar year.*

*Croatia shall also notify the number of payment entitlements available to farmers on 31 December of the previous calendar year, as well as the amount remained unspent in the special national de-mining reserve at the same date.*

*Where applicable, the notifications provided in the first and second subparagraphs shall be made per region as defined in accordance with Article 20(1).*

2. *The Commission shall calculate on a yearly basis the amount to be added to the amounts set for Croatia in Annex II, when reviewing that Annex pursuant to Article 6(2), in order to finance the support to be granted under the schemes listed in Annex I for the areas referred to in the first subparagraph of paragraph 1 of this Article. This amount shall be calculated on the basis of the data notified by Croatia in accordance with paragraph 1 and the estimated average direct payments per hectare in Croatia for the year concerned.*

*The maximum amount to be added in accordance with the first subparagraph, on the basis of all the areas notified by Croatia in accordance with paragraph 1 of this Article until 2022, shall be EUR 9 600 000 and shall be subject to the schedule of introduction of direct payments in accordance with Article 16a, as set out in Annex Vb.*

3. *The Commission shall, by means of implementing acts, set the share of the amount to be added in accordance with paragraph 2 which Croatia shall include in the special national de-mining reserve in order to allocate payment entitlements for the areas referred to in the first subparagraph of paragraph 1. This share shall be calculated on the basis of the ratio between the basic payment ceiling and the amount set in Annex II before its increase in accordance with paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).*
4. *For the years 2014 to 2022, Croatia shall use the special national de-mining reserve to allocate payment entitlements to farmers on the basis of de-mined land declared by the farmers in the year in question under the following conditions:*
- (a) such land is eligible within the meaning of Article 25(2),*
  - (b) the land in question was returned to use for agricultural activities during the previous calendar year,*
  - (c) the land has been notified to the Commission in accordance with paragraph 1 of this Article.*

5. *The value of the payment entitlements established under this Article shall be the national or regional average value of payment entitlements in the year of allocation within the limits of the amount available in the special national de-mining reserve.*
  
6. *In order to take account of the consequences of the return of de-mined land to use for agricultural activities as notified by Croatia in accordance with of this Article, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 adapting the amounts set out in Annex Va.*

TITLE III  
BASIC PAYMENT SCHEME AND RELATED PAYMENTS

CHAPTER 1  
BASIC PAYMENT SCHEME

SECTION 1  
SETTING UP OF THE BASIC PAYMENT SCHEME

*Article 18*

**Payment entitlements**

1. Support under the basic payment scheme shall be available to farmers if they obtain payment entitlements under this Regulation through ***allocation pursuant to Article 17b(4)***, first allocation pursuant to Article 21, from the national reserve pursuant to Article 23 or by transfer pursuant to Article 27.

***Support under the basic payment scheme shall also be available to farmers who dispose of payment entitlements and whose holding is situated in a Member State which has decided, in accordance with paragraph 3, to keep its existing payment entitlements.***

2. Payment entitlements obtained under the single payment scheme in accordance with Regulation (EC) No 1782/2003 and with Regulation (EC) No 73/2009 shall expire on 31 December 2013.
3. ***By way of derogation from paragraph 2, Member States which, by 31 December 2013, operate the single payment scheme on a regional or regional hybrid basis may, by 1 August 2013, decide to keep their existing payment entitlements.***



## Article 19

### Basic payment scheme ceiling

1. The Commission shall, by means of implementing acts, set, *for each Member State*, the annual national ceiling for the basic payment scheme by deducting from the annual national ceiling established in Annex II the annual amounts to be set in accordance with Articles 33, 35, 37 and 39. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).
2. For each Member State and each year, the total value of all ~~allocated~~ payment entitlements and the national reserve shall equal the respective national ceiling adopted by the Commission pursuant to paragraph 1. *For the purposes of this calculation, payment entitlements referred to in Article 24(1a) shall not be considered to be part of the national reserve.*
3. ~~In case of modification of~~ *If* the ceiling adopted by the Commission pursuant to paragraph 1 ~~as compared to is different from that of~~ the previous year, a Member State shall linearly reduce or increase the value of all payment entitlements in order to ensure compliance with paragraph 2.  
*The first subparagraph shall not apply where such a modification is due to the application of Article 17b(2).*

## Article 20

### Regional allocation of the national ceilings

1. Member States may decide, before 1 August 2013, to apply the basic payment scheme at regional level. In that case they shall define the regions in accordance with objective and non-discriminatory criteria such as their agronomic and economic characteristics and their regional agricultural potential, or their institutional or administrative structure.

2. Member States shall divide the national ceiling referred to in Article 19(1) between the regions in accordance with objective and non-discriminatory criteria.  
*By way of derogation from the first subparagraph of this paragraph, Member States not applying Article 23(2) shall divide the national ceiling referred to in Article 19(1), after application of the linear reduction provided for in Article 23(1), between the regions in accordance with objective and non-discriminatory criteria.*
3. Member States may decide that the regional ceilings shall be subject to annual progressive modifications in accordance with pre-established annual steps and objective and non-discriminatory criteria such as the agricultural potential or environmental criteria.
4. To the extent necessary to respect the applicable regional ceilings determined in accordance with paragraph 2 or 3, Member States shall make a linear reduction or increase in the value of the payment entitlements in each of their *relevant* regions.  
  
*4a. Any Member State applying paragraph 1 may, by 31 July 2013, decide to cease the application of the basic payment scheme at regional level from a date to be set by the Member State.*
5. ~~The~~ Member States shall, *where relevant*, notify the Commission by 1 August 2013 of the decision referred to in paragraph 1, ~~together with~~ *and of* the measures taken for the application of paragraphs 2, ~~and~~ *3 and 4a*.

Article 21

**First allocation of payment entitlements**

1. *Without prejudice to Article 18(3) ~~Subject to paragraph 2~~, payment entitlements shall be allocated to farmers if they apply for allocation of payment entitlements under the basic payment scheme by ~~15 May 2014~~ the date in 2014 to be set in accordance with point (d) of Article 78 of Regulation (EU) No... [HRZ] except in case of force majeure ~~or and~~ exceptional circumstances. The number of payment entitlements shall be equal to the number of eligible hectares which they declare in accordance with Article 26(1) of this Regulation.*
  
2. *Member States may, by 31 July 2013 decide that, in the first year of application of the basic payment scheme, payment entitlements shall be allocated only to farmers who are entitled to be granted direct payments in accordance with Article 9 and who fulfill at least one of the following conditions:*

*(a) ~~Farmers who, in 2010 or 2011, or in the case of Croatia in 2013, received direct payments or complementary national direct payments, activated at least one payment entitlement under the single payment scheme or claimed support under the single area payment scheme, or, in the case of Cyprus, state aid, both~~ in accordance with Regulation (EC) No 73/2009, ~~shall receive payment entitlements the first year of application of the basic payment scheme provided they are entitled to be granted direct payments in accordance with Article 9.~~*

*~~By way of derogation from the first subparagraph, farmers shall receive payment entitlements the first year of application of the basic payment scheme provided they are entitled to be granted direct payments in accordance with Article 9 and that in 2011:~~*

- (b) did not receive in 2010 or 2011 any support referred to in point (a) and:*
- (a i) under the single payment scheme, ~~they did not activate any entitlement but~~ produced ~~exclusively~~ fruits, vegetables, *ware potatoes* and/or cultivate ~~exclusively~~ vineyard; *or**
- (bii) under the single area payment scheme, ~~they did not claim any support and~~ had ~~only~~ agricultural land that was not in good agricultural conditions on 30 June 2003 as provided for in Article 124(1) of Regulation (EC) No 73/2009.;*
- (c) in 2012 or 2013 were allocated payment entitlements under the single payment scheme pursuant to Article 63 or point B or C of Annex IX of Regulation (EC) No 73/2009;*
- (d) in 2012 or 2013 were allocated payment entitlements from the national reserve under the single payment scheme pursuant to Article 41 of Regulation (EC) No 73/2009.*

*2a.* Except in the case of *force majeure* or exceptional circumstances, the number of payment entitlements allocated per farmer shall be equal to the number of eligible hectares, ~~within the meaning of Article 25(2), which~~ the farmer declares in accordance with Article 26(1) for 2014.

3. In case of sale or lease of their holding or part of it, natural or legal persons complying with paragraph 2 may, by contract signed before 15 May 2014, transfer the right to receive payment entitlements as referred to in paragraph 1 to ~~only~~ one *or more* farmers provided that the latter complies with the conditions laid down in Article 9.

4. The Commission shall, by means of implementing acts, adopt rules on applications for allocation of payment entitlements submitted in the year of allocation of payment entitlements where those payment entitlements may not be definitively established yet and where that allocation is affected by specific circumstances. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).
5. *A Member State may decide to fix a minimum size per holding, expressed in eligible hectares for which the establishment of payment entitlements may be requested. That minimum size shall not be higher than the thresholds set out in point (b) of the first subparagraph of Article 10(1) in conjunction with the second subparagraph thereof.*

#### *Article 22*

#### **Value of payment entitlements and convergence**

1. For each relevant year, the unit value of payment entitlements shall be calculated by dividing the national or regional ceiling established ~~under in accordance with~~ Articles 19 or 20, after application of the linear reduction provided for in Article 23(1) *or, where applicable, in Article 23(2)*, by the number of payment entitlements *allocated or existing in 2014* at national or regional level ~~in accordance with according to Article 21(2) for 2014~~, *including payment entitlements allocated from the national or regional reserve in accordance with Article 23. The number of payment entitlements shall be expressed in hectares.*

- [2. Member States which applied the single payment scheme as provided for in Regulation (EC) No 73/2009, may limit the calculation of the unit value of payment entitlements provided for in paragraph 1 to an amount corresponding to no less than [40 %] of the national or regional ceiling established *in accordance with* ~~under~~ Articles 19 or 20, after application of the linear reduction provided for in Article 23(1) *or, where applicable, in Article 23(2)*.
3. Member States *which have not decided, in accordance with Article 18(3), to keep their existing payment entitlements and which make* ~~making~~ use of the possibility provided for in paragraph 2 *of this Article* shall use the part of the ceiling which remains after the application of that paragraph to increase the value of payment entitlements in cases where the total value of payment entitlements held by a farmer under the basic payment scheme calculated *in accordance with* ~~according to~~ paragraph 2 *of this Article* is lower than the total value of payment entitlements, including special entitlements, ~~he that the farmer~~ held on 31 December 2013 under the single payment scheme in accordance with Regulation (EC) No 73/2009.

To this end, the national or regional unit value of each of the payment entitlements of the farmer concerned shall be increased by a share of the difference between the total value of the payment entitlements under the basic payment scheme calculated *in accordance with* ~~according to~~ paragraph 2 *of this Article* and the total value of payment entitlements, including special entitlements, which the farmer held on 31 December 2013 under the single payment scheme in accordance with Regulation (EC) No 73/2009.

For the calculation of the increase, a Member State may also take into account the support granted in calendar year 2013 pursuant to Articles 52, *Article* 53(1), and *Article* 68(1)(b) of Regulation (EC) No 73/2009 provided that ~~the~~*that* Member State has decided not to apply the voluntary coupled support pursuant to Title IV of this Regulation to the relevant sectors.

For the purpose of the first subparagraph, a farmer is considered to hold payment entitlements on 31 December 2013 where payment entitlements were allocated or definitively transferred to him by that date.]

- [3a. *Member States which applied the single area payment scheme as provided for in Regulation (EC) No 73/2009, may limit the calculation of the unit value of payment entitlements provided for in paragraph 1 to an amount corresponding to no less than [40 %] of the national or regional ceiling established in accordance with Articles 19 or 20, after application of the linear reduction provided for in Article 23(1) or, where applicable, in Article 23(2).*

*Those Member States may increase the national or regional value of payment entitlements calculated in accordance with paragraph 1 in cases where the total value of payment entitlements held by a farmer under the basic payment scheme is lower than the total value of aid, including state aid, received by that farmer in any one of the calendar years in the period between 2009 and 2013, under Regulation (EC) No 73/2009.*

*To this end, the national or regional value of each of the payment entitlements of the farmer concerned shall be increased by a share of the difference between the total value of the payment entitlements under the basic payment scheme and the total value of aid, including state aid, received by that farmer in the year chosen by the Member State under the second subparagraph under, Regulation (EC) No 73/2009.*

*For the calculation of the increase, a Member State may take into account all support granted to a farmer in accordance with Regulation (EC) No 73/2009 in the year chosen by the Member State under the second subparagraph, other than payments under the single area payment scheme provided that that Member State has decided not to apply the voluntary coupled support pursuant to Title IV of this Regulation to the relevant sectors.]*

4. For the purposes of paragraph 3, a Member State may, on the basis of objective criteria, provide that, in cases of sale or grant or expiry of all or part of a lease of agricultural areas after the date fixed pursuant to Article 35 of Regulation (EC) No 73/2009 and before the date fixed pursuant to Article 26 of this Regulation, the increase, or part of the increase, in the value of payment entitlements that would be allocated to the farmer concerned shall revert to the national reserve where the increase would lead to a windfall profit for the farmer concerned.

Those objective criteria shall be established in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions and shall include, at least, the following:

- (a) a minimum duration for the lease;
- (b) the proportion of the payment received which shall revert to the national reserve.

- 4a. Member States which, in accordance with Article 18(3) decide to keep their existing payment entitlements may decide to calculate the value of payment entitlements held by a farmer either as a uniform value per payment entitlement or by adjusting the value of the existing payment entitlements.*

5. As of claim year [2019] at the latest, all payment entitlements in a Member State or, in case of application of Article 20, in a region, shall have a uniform unit value.



6. When applying paragraphs 2 and 3, Member States, acting in compliance with ~~the general principles of~~ Union law, *in particular with the principles of proportionality and non-discrimination*, shall move towards approximating the value of the payment entitlements at national or regional level. To this end, Member States shall fix the steps to be taken *and notify them to the Commission* by 1 August 2013. Those steps shall include annual progressive modifications of the payment entitlements in accordance with objective and non-discriminatory criteria.
- ~~The steps referred to in the first subparagraph shall be notified to the Commission by the date referred to in that subparagraph.~~

SECTION 2  
NATIONAL RESERVE

*Article 23*

**Establishment and use of the national reserve**

1. Each Member State shall establish a national reserve. For that purpose, in the first year of application of the basic payment scheme, Member States shall proceed to a linear percentage reduction of the basic payment scheme ceiling at national level in order to constitute the national reserve. This reduction shall not be higher than 3 % except, if required, to cover the allocation needs laid down in *point (aa) of paragraph 4 5* for the year 2014.
  
2. *By way of derogation from paragraph 1* Member States *applying Article 20* may ~~administer the national reserve at regional level~~ *establish regional reserves. For that purpose, in the first year of application of the basic payment scheme, Member States shall proceed to a linear percentage reduction of the basic payment scheme ceiling at regional level in accordance with Article 20(2) in order to constitute the regional reserve. This reduction shall not be higher than 3%.*
  
3. Member States shall ~~establish~~ *allocate* payment entitlements from the national *or regional* reserve in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions.

- ~~4. Member States shall use the national reserve to allocate payment entitlements, as a matter of priority, to young farmers who commence their agricultural activity. For the purposes of the first subparagraph, ‘young farmers who commence their agricultural activity’ means farmers fulfilling the conditions laid down in Article 36(2) that did not have any agricultural activity in their own name and at their own risk or did not have the control of a legal person exercising an agricultural activity in the 5 years preceding the start of the new agricultural activity. In case of a legal person, the natural person(s) who has the control of the legal person must not have had any agricultural activity in his own name and at his own risk or must not have had the control of a legal person exercising an agricultural activity in the 5 years preceding the start of the agricultural activity by the legal person.~~
5. Member States may use the national *or regional* reserve to:
- ~~(aa) allocate payment entitlements to young farmers and/or farmers who commence their agricultural activity;~~
  - (a) allocate payment entitlements to farmers ~~in areas subject to restructuring and/or development programmes relating to a form of public intervention~~ in order to prevent land from being abandoned and/or to compensate farmers for specific disadvantages ~~in those areas and/or force majeure or exceptional circumstances;~~
  - (b) linearly increase *on a permanent basis* the value of payment entitlements under the basic payment scheme at national or regional level ~~if the national reserve exceeds 3 % in any given year~~, provided that sufficient amounts remain available for allocations under ~~paragraph 4, under point (a) of this paragraph and under paragraph 7~~ *this Article*.
  - ~~(bb) cover the yearly needs according to Article 37(2) and Article 51(1) or to adjust on a yearly basis the value of the payment entitlements under the basic payment scheme. The part of the national or regional reserve referred to in Article 24(1)(e) and Article 24(1a) can only be used for this purpose.~~

*Member States shall decide on the priorities between the different uses of the national reserve.*

6. ~~When applying~~ *Where points (aa) and (a) of paragraphs 5 Member States shall establish are applied* the value of payment entitlements allocated to farmers *shall correspond, for each relevant year, to the unit value set out in Article 22(1) or, where applicable, Article 22(2) or Article 22(4a) on the basis of the national or regional average value of payment entitlements in the year of allocation.*
  
7. Where a farmer is entitled to receive payment entitlements or increase the value of the existing ones by virtue of a definitive court's ruling or by virtue of a definitive administrative act of the competent authority of a Member State, the farmer shall receive the number and value of payment entitlements established in that ruling or act at a date to be fixed by the Member State. However, this date shall not be later than the latest date for lodging an application under the basic payment scheme following the date of the court's ruling or the administrative act, taking into account the application of Articles 25 and 26.

*Where the national or regional reserve is not sufficient to cover the cases referred to in first subparagraph, Member States shall proceed to a linear reduction of the payment entitlements.*

*Article 24*

**Replenishment of the national reserve**

1. The national *or regional* reserve ~~shall be~~ **is** replenished by amounts resulting from:
  - (a) payment entitlements not giving right to payments during two consecutive years due to the application of:
    - (i) Article 9;
    - (ii) Article 10(1).
  - (b) ~~any a number of~~ payment entitlements *equivalent to the total number of payment entitlements* which ~~has~~ **have** not been activated *by a farmer* in accordance with Article 25 for a period of two *consecutive* years, except in the case of *force majeure* or exceptional circumstances. *For the purpose of establishing the entitlements held by a farmer that shall be reverted to the national or regional reserve, the entitlements having the lowest value shall be given priority;*
  - (c) payment entitlements voluntarily reverted by farmers;
  - (d) the application of Article 22(4).
  - (e) *without prejudice to Article 51(1)(b), the difference between the estimated percentage of the annual national ceiling notified to the Commission in accordance with Article 37(1) and the sum of all payments granted in accordance with Article 36(1).*
- 1a. The national reserve shall be further replenished by amounts resulting from the payment entitlements including the payment referred to in Article 29(1) not activated under Article 26(1) in a declaration for the current year.*
2. The Commission shall, by means of implementing acts, adopt necessary measures regarding the reversion of non-activated payment entitlements to the national *or regional* reserve. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

SECTION 3  
IMPLEMENTATION OF THE BASIC PAYMENT SCHEME

*Article 25*

**Activation of payment entitlements**

1. Support under the basic payment scheme shall be granted to farmers upon activation, by means of declaration in accordance with Article 26(1), of a payment entitlement per eligible hectare in the Member State where it has been allocated. Activated payment entitlements shall give a right to the annual payment of the amounts fixed therein, without prejudice to the application of financial discipline, [progressive reduction and capping,] linear reductions in accordance with Article 7, **Article 37(2)** and **Article 51(1)**, and any reductions and exclusions imposed pursuant to Regulation (EU) No [...] [HZR].
  
2. For the purposes of this Title, 'eligible hectare' shall mean:
  - (a) any agricultural area of the holding that is used for an agricultural activity or, where the area is used as well for non-agricultural activities, predominantly used for agricultural activities ***including areas that were not in good agricultural condition on 30 June 2003 in Member States acceding to the Union on 1 May 2004 that opted upon accession to apply the single area payment scheme***; or
  - (b) any area which gave a right to payments in 2008 under the single payment scheme or the single area payment scheme laid down, respectively, in Titles III and ~~in Chapter 2 of Title IV a~~ **of Regulation (EC) No ~~73/2009-1782/2003~~**, and which:
    - (i) no longer complies with the definition of 'eligible **hectare**' under point (a) as a result of the implementation of Directive 92/43/EEC, Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy<sup>29</sup> and Directive 2009/147/EC; or

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<sup>29</sup> OJ L 327, 22.12.2000, p. 1.

- (ii) for the duration of the relevant commitment by the individual farmer, is afforested pursuant to Article 31 of Regulation (EC) No 1257/1999 or to Article 43 of Regulation (EC) No 1698/2005 **or to Article 23 of Regulation (EU) No [...] [RDR]** or under a national scheme the conditions of which comply with Article 43(1), (2) and (3) of Regulation (EC) No 1698/2005 and Article 23 of Regulation (EU) No [...] [RDR]; or
- (iii) for the duration of the relevant commitment of the individual farmer, is set aside pursuant to Articles 22, 23 and 24 of Regulation (EC) No 1257/1999 or to Article 39 of Regulation (EC) No 1698/2005 and Article 29 of Regulation (EU) No [...] [RDR].

For the purposes of point (a) of the first subparagraph<sup>5</sup>:

- i)* where an agricultural area of a holding is also used for non-agricultural activities, that area shall be considered to be used predominantly for agricultural activities provided that those agricultural activities can be exercised without being significantly hampered by the intensity, nature, duration and timing of the non-agricultural activities.
- ii)* ***Member States may draw up a list with areas which are predominantly used for non agricultural activities.***

Member States shall establish criteria for the implementation of ~~this~~ ***the first and second*** subparagraphs on their territory.

In order to be eligible, areas must comply with the definition of eligible hectare throughout the calendar year, except in the case of *force majeure* or exceptional circumstances.

*For the purposes of determining ‘eligible hectare’, Member States deciding to include hectares of permanent grassland where grasses and other herbaceous forage are traditionally not predominant in grazing areas, as referred to in Article 4(1)(h), may apply a reduction coefficient to convert those hectares into ‘eligible hectares’.*

3. Areas used for the production of hemp shall only be eligible hectares if the varieties used have a tetrahydrocannabinol content not exceeding 0,2 %.

#### *Article 26*

#### **Declaration of eligible hectares**

1. For the purposes of ~~Article 25(1)~~ *the activation of payment entitlements provided for in Article 25 (1)*, the farmer shall declare the parcels corresponding to the eligible hectares accompanying any payment entitlement. Except in the case of *force majeure* or exceptional circumstances, those parcels shall be at the farmer's disposal on a date fixed by the Member State which shall be no later than the date fixed in that Member State for amending the aid application as referred to in Article 73(1) of Regulation (EU) No [...] [HZR].
2. Member States may, in duly justified circumstances, authorise the farmer to modify his declaration provided that he maintains at least the number of hectares corresponding to his payment entitlements and respects the conditions for granting the basic payment for the area concerned.



## Article 27

### Transfer of payment entitlements

1. Payment entitlements may be transferred only to a farmer established within the same Member State, except in the case of transfer by actual or anticipated inheritance. However, even in the case of actual or anticipated inheritance, payment entitlements may be used only in the Member State where the payment entitlements were established.
2. Payment entitlements may be transferred only within the same region or between regions of a Member State where the value of payment entitlements per hectare resulting from the application of either Article 22(1) or Article 22(2) are the same.
3. The Commission shall, by means of implementing acts, **adopt lay down necessary requirements related to the modalities of** the notification of transfer of payment entitlements **which farmers have to make** to the national authorities and the deadlines within which such notification is to take place. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

## Article 28

### Delegated powers

***In order to ensure legal certainty and to clarify the specific situations that may arise in the application of the basic payment scheme,*** ~~the~~ The Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning:

- (a) rules on eligibility and the access in respect of the basic payment scheme of farmers, in case of inheritance and anticipated inheritance, inheritance under a lease, change of legal status or denomination and in the case of merger or scission of the holding;

- (b) rules on the calculation of the value and number or on the increase or reduction in the value of payment entitlements in relation to the allocation of payment entitlements under any provision of this Title, including rules:
  - (i) on the possibility of a provisional value and number or of a provisional increase of payment entitlements allocated on the basis of the application from the farmer,
  - (ii) on the conditions for establishing the provisional and definitive value and number of the payment entitlements,
  - (iii) on the cases where a sale or lease contract could affect the allocation of payment entitlements.
- (c) rules on the establishment and calculation of the value and number of payment entitlements received from the national reserve;
- (d) rules on the modification of the unit value of payment entitlements in the case of fractions of payment entitlements;
- (e) criteria to be applied by Member States *where they decide* to allocate payment entitlements to farmers who did not activate any entitlement in **2010 or** 2011 or did not claim support under the single area payment scheme in **2010 or** 2011 as provided for in Article 21(2) and to allocate payment entitlements in case of application of the contract clause referred to in Article 21(3);
- (f) criteria for the allocation of payment entitlements pursuant to in Article 23(4) and (5);
- (g) rules on the *content of the* declaration and *the requirements for the* activation of payment entitlements;
- (h) rules making the granting of payments conditional upon the use of certified seeds of certain hemp varieties and laying down the procedure for the determination of hemp varieties and the verification of their tetrahydrocannabinol content referred to in Article 25(3).
- (i) *criteria for setting the reduction coefficient referred to in fifth subparagraph of Article 25(2).*

[CHAPTER 2]  
PAYMENT FOR AGRICULTURAL PRACTICES BENEFICIAL FOR  
THE CLIMATE AND THE ENVIRONMENT

*[Article 29]*  
**General rules**

1. Farmers entitled to a payment under the basic payment scheme ~~referred to in Chapter 1~~ shall observe on their eligible hectares as defined in Article 25(2) *either* the **following** agricultural practices beneficial for the climate and the environment *referred to in paragraph 1a or the equivalent practices referred to in paragraph 1b, or a combination of these*.

*1a. The agricultural practices for the climate and the environment referred to in paragraph 1 shall be:*

- (a) to have three different crops on their arable land ~~where the arable land of the farmer covers more than 3 hectares and is not entirely used for grass production (sown or natural), entirely left fallow or entirely cultivated with crops under water for a significant part of the year;~~
- (b) to maintain existing permanent grassland on their holding; and
- (c) to have ecological focus area on their agricultural area.

*1b. The equivalent practices referred to in paragraph 1 shall be:*

- (a) *commitments undertaken in accordance with or fulfilling the requirements of either Article 39(2) of Regulation No 1698/2005 or Article 29(2) and Article 31(4) of Regulation (EU) No [...]RDR.*

**(b) national or regional environmental certification schemes, including certification of compliance with national environmental legislation going beyond the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No [...] [HZR], which aim to meet objectives relating to soil and water quality, biodiversity, landscape preservation, and climate change mitigation and adaptation. These schemes must be effective, objective and transparent.**

**1c. Member States may decide not to use or to use only one or both of the options referred to in paragraphs 1b(a) and 1b(b). They shall notify to the Commission the specific commitments referred to in paragraph 1b(a) and the national or regional certification schemes referred to in paragraph 1b(b) which they intend to use as equivalent practices in the meaning of paragraph 1. The Commission shall approve these equivalent practices.**

**Alternatively, some or all of the commitments referred to in paragraph 1b(a) can be identified in the respective national or regional rural development programmes approved by the Commission.**

2. Without prejudice to paragraphs 3 and 4 and to the application of financial discipline, linear reductions in accordance with Article 7, and any reductions and penalties imposed pursuant to Regulation (EU) No [...] [HZR], Member States shall grant the payment referred to in this Chapter to farmers observing those of the ~~three~~ practices referred to in paragraph 1 that are relevant for them, and in function of their compliance with Articles 30, 31 and 32.

***This payment shall take the form of an annual payment per eligible hectare declared in accordance with Article 26(1), the amount of which shall be calculated annually by dividing the amount resulting from the application of Article 33(1) by the total number of eligible hectares declared in the Member State concerned. It shall be without prejudice to the calculation of costs incurred and income foregone for the equivalent practices referred to in paragraph 1b(a).***

3. Farmers whose holdings are fully or partly situated in areas covered by Directives 92/43/EEC or 2009/147/EC shall be entitled to the payment referred to in this Chapter provided that they observe the practices referred to in this Chapter to the extent that those practices are compatible in the holding concerned with the objectives of those Directives.
4. Farmers complying with the requirements laid down in Article 29(1) of Regulation (EC) No 834/2007 as regards organic farming shall be entitled *ipso facto* to the payment referred to in this Chapter.

*As regards organic farming* the first subparagraph shall apply only to the units of a holding that are used for organic production in accordance with Article 11 of Regulation (EC) No 834/2007.

~~5. The payment referred to in paragraph 1 shall take the form of an annual payment per eligible hectare declared according to Article 26(1), the amount of which shall be calculated annually by dividing the amount resulting from the application of Article 33(1) by the total number of eligible hectares declared in the Member State concerned according to Article 26.~~

6. *The Commission shall, by means of implementing acts, further specify the rules relating to:*
  - (a) *establishing whether the commitments referred to in paragraph 1b(a) and the national or regional environmental certification schemes referred to in paragraph 1b(b) are equivalent practices in the meaning of paragraph 1 in respect to one or more of the agricultural practices referred to in paragraph 1a and/or in respect to one or more of the ecological focus areas listed in Article 32(1), taking account of their capacity to meet objectives relating to soil and water quality, biodiversity, landscape preservation, and climate change mitigation and adaptation; and*

- (b) *the requirements applicable to the national or regional certification schemes referred to in paragraph 1b(b), including the level of assurance to be provided by those schemes as regards their effectiveness, objectivity and transparency.*

*Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).*

#### *Article 30*

### **Crop diversification**

1. Where the arable land of the farmer covers more than ~~15~~ 3 hectares ~~and is not entirely used for grass production (sown or natural), entirely left fallow or entirely cultivated with crops under water for a significant part of the year,~~ *there shall be cultivation on the arable land shall consist of* at least three different crops *on that arable land. None of those three crops shall cover less than 5 % of the arable land and the main one shall not exceed 70 % of the arable land. The main crop shall not cover more than 70 % of that arable land and the two main crops together shall not cover more than 95 % of that arable land.*

**1aa. Paragraph 1 shall not apply to holdings:**

- (a) where more than 75% of the eligible agricultural area is permanent grassland or cultivated with crops under water for a significant part of the year;**
- (b) where the arable land is entirely used for production of grass or other herbaceous forage, entirely left fallow, entirely cultivated with leguminous crops, or subject to a combination of these uses; alternatively, if such land exceeds 70% of the arable land of the holding, it can be excluded from the requirement referred to in paragraph 1 of this Article;**
- (c) where the farmer interchanges more than 50% of his total arable land with other farmers on an annual basis, provided that he proves that each parcel of his arable land is being cultivated with a different crop compared to that of the previous calendar year.**

**[1aaa. Member States may decide that paragraph 1 shall not apply to agricultural areas of less than 10 hectares which are delimited by surrounding forest on 75% or more of their periphery and a straight line marking the remaining part of their periphery.]**

**1a. For the purposes of this Article, a "crop" shall mean a culture of any of the different genera defined in the botanical classification of crops or a culture of any of the species in the case of the plant families Brassicaceae, Solanaceae and Cucurbitaceae, as well as a land laid fallow. However, winter crop and spring crop shall be considered to be distinct crops even if they belong to the same genus.**

2. ***In order to ensure that the obligations referred to in this Article are applied in a proportionate and non-discriminatory way and lead to an enhanced environmental protection, the Commission shall be empowered to adopt delegated acts in accordance with Article 55:***
- (a) ***adding other types of crops than those referred to in paragraph 1a of this Article;***  
***and***
- (b) ***laying down ~~the definition of "crop" and~~ the rules concerning the application of the precise calculation of shares of different crops.***

### *Article 31*

#### **Permanent grassland**

1. Farmers shall maintain as permanent grassland the areas ~~of their holdings~~ declared as such in the application made pursuant to Article 74(1) of Regulation (EU) No XXX ~~[(HZR)]~~ for claim year 2014, hereinafter referred to as “reference areas under permanent grassland”.
- 1a.** The reference areas under permanent grassland shall be increased in cases where the farmer has an obligation to reconvert areas into permanent grassland in 2014 and/or in 2015 ***in accordance with ~~as referred to in~~ Article 93 of Regulation (EU) No [...] [HZR].***
2. Farmers shall be allowed to convert a maximum of 5 % of their reference areas under permanent grassland. That limit shall not apply in the case of *force majeure* or exceptional circumstances.



**2aa.** *By way of derogation from paragraphs 1 and 2, Member States where, for the year 2012, the ratio of permanent pasture in relation to the total agricultural area has not decreased or has decreased by less than [5] % to the detriment of permanent pasture in relation to the reference ratio referred to in Article 3(2) of Regulation (EU) No 1122/2009 may decide, by 31 July 2013, not to apply paragraphs 1 and 2.*

*Member States having applied the obligation of Article 6, paragraph 2 of Regulation (EC) No 73/2009 at regional level may decide to apply this derogation only for the regions which comply with the condition laid down in the first subparagraph of this paragraph.*

*Member States shall notify any such decision to the Commission.*

**2a.** *Member States making use of the derogation provided for in paragraph 2aa shall ensure that the ratio of permanent grassland is maintained in relation to the total agricultural area. That obligation shall apply at national, regional or appropriate sub-regional level.*

**2aaa.** *Member States not making use of the derogation provided for in paragraph 2aa and which have established a monitoring system of permanent grassland at national, regional or appropriate sub-regional level may decide by 31 July 2013 to apply an alternative system based on the following:*

- (i)** *Where, in a particular year, the ratio of permanent grassland in relation to the total agricultural area at the respective national, regional or appropriate sub-regional level has not decreased by more than [3%] compared to the year [2011, 2012], all farmers pertaining to that national, regional or sub-regional level shall be deemed to have complied with the requirements referred to in paragraphs 1 and 2.*

- (ii) *Where, in a particular year, the ratio of permanent grassland in relation to the agricultural area at the respective national, regional or appropriate sub-regional level has decreased by more than [3%] but not more than [5%] compared to the year [2011, 2012], all farmers pertaining to that national, regional or sub-regional level shall be deemed to have complied with the requirement referred to in paragraph 1, provided they have applied individually and have received official authorization for any permanent grassland they have ploughed up on their holding.*
- (iii) *Where in a particular year the ratio of permanent grassland in relation to the agricultural area at the national, regional or appropriate sub-regional level has decreased by more than [5%] compared to the year [2011, 2012], Member States shall take measures requiring those farmers who have ploughed up grassland without the authorisation referred to in point (ii), to revert back to grassland the land they had previously ploughed up in order to bring this decrease below the threshold of [5%]. Farmers who have not ploughed up any permanent grassland and farmers who were authorised to do so in accordance with point (ii) shall be deemed to have complied with the requirement referred to in paragraph 1. All farmers pertaining to that national, regional or appropriate sub-regional level shall be deemed to have complied with the requirement referred to in paragraph 1, as soon as the upper limit of [5%] has been re-established. This requirement shall not apply where the increase above the threshold of [5%] results from afforestation provided such afforestation which is compatible with the environment and which does not include plantations of Christmas trees and fast growing species cultivated in the short term.*

*Member States shall notify any such decision to the Commission.*

3. *In order to ensure that the ratio of permanent grassland is maintained, and in particular to ensure that measures are taken in case the ratio of permanent grassland in relation to the agricultural area decreases beyond the limits referred to in paragraphs 2aa, 2a and 2aaa, ~~the Commission shall be empowered to adopt delegated acts in accordance with Article 55 laying down rules on maintenance of concerning the increase of reference areas under permanent grassland as laid down in the second subparagraph of paragraph 1, the renewal of permanent grassland, the reconversion of agricultural area into permanent grassland in case the authorised decrease referred to in paragraph 2 is exceeded, as well as the modification of the reference areas under permanent grassland in case of transfer of land.~~*
4. *The Commission shall, by means of implementing acts, establish the methods for the determination of the ratio of permanent grassland and agricultural land that has to be maintained referred to in paragraphs 2aa, 2a and 2aaa. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).*

*Article 32*

**Ecological focus area**

1. *Where the eligible agricultural area of a holding covers more than 15 hectares, ~~farmers~~ shall ensure that at least [7 %] of their eligible hectares as defined in Article 25(2), excluding ~~areas under permanent grassland,~~ ~~is~~ *are* ecological focus area.*

*Ecological focus area ~~such as~~ may include:*

- (a) land left fallow;*
- (b) terraces;*
- (c) landscape features;*

- (d) buffer strips *[without fertilisation and pesticides]*; ~~and~~
- (e) *eligible hectares of agro-forestry*;
- (f) *areas of permanent crops with more than 20 but less than 50 trees per hectare*;
- (g) *strips of eligible hectares along forest edges*;
- (h) *areas covered by commitments undertaken in accordance with Article 39(2) of Regulation (EC) 1698/2005 or with Article 29 (2) and 31(4) of Regulation (EC) No [...]RDR], which have been established as equivalent practices in accordance with Article 29(6)(a), in respect to one or more of the areas referred to in points (a) to (f) of this subparagraph; as well as*
- (h) afforested areas ~~as~~ referred to in Article 25(2)(b)(ii).

*Member States may decide which area referred to in the second subparagraph shall be considered as ecological focus area on their territory.*

**1a.** *In order to take account of the specificities of the types of ecological focus areas listed in paragraph 1 and to facilitate their measurement, Member States may, when calculating the total hectares represented by the ecological focus area of the holding, make use of the area-related weighting factors listed in ANNEX [...] to this Regulation.*

**1aa.** *Paragraph 1 shall not apply to any of the following:*

- (a) *holdings where more than 75% of the eligible agricultural area is permanent grassland or cultivated with crops under water for a significant part of the year*;
- (b) *arable land of the holding where this arable land is entirely used for production of grass or other herbaceous forage, entirely left fallow, or subject to a combination of these uses; alternatively, if such land exceeds 70% of the arable land of the holding, it can be excluded from the requirement referred to in paragraph 1 of this Article*;

- (c) *arable land of the holding under leguminous crops;*
- (d) *permanent crops of the holding extensively managed.*

*[Furthermore Member States may decide that paragraph 1 shall not apply to agricultural areas of less than 10 hectares which are delimited by surrounding forest on 75% or more of their periphery and a straight line marking the remaining part of their periphery.]*

- 1aaa. By way of derogation from paragraph 1, Member States may decide that up to 50% of the percentage points of the ecological focus area referred to in paragraph 1 may be implemented by farmers through collective actions undertaken at an appropriate geographical level in order to obtain adjacent ecological focus areas. Member States may, in order to underpin the implementation of Union policies on the environment, climate and biodiversity, identify the appropriate geographical level and the obligations of farmers participating in collective actions to meet the 3,5 percentage points.*
2. *In order to ensure the efficiency and consistency of the ecological focus area measure while taking into account Member States' specificities, ~~the~~ the Commission shall be empowered to adopt delegated acts in accordance with Article 55:*
- (a) laying down further criteria for the types of areas referred to in paragraph 1 of this Article to qualify as ecological focus areas;*
  - (b) adding other ~~to further define the~~ types of ~~ecological focus~~ areas *than those* referred to in paragraph 1 of this Article ~~and to add and define other types of ecological focus areas~~ that can be taken into account for the respect of the percentage referred to in that paragraph;*
  - (c) laying down criteria for the types of areas referred to in paragraph 1aa(d) of this Article to qualify as extensively managed.*

*Where adding other types of ecological focus areas, the Commission shall ensure that they aim at improving the general environmental performance of the holding, in particular as concerns biodiversity, improvement of soil and water quality, landscape and meeting the climate change mitigation and adaptation objectives.*

*Article 33*

**Financial provisions**

1. In order to finance the payment referred to in this Chapter, Member States shall use [30 %] of the annual national ceiling set out in Annex II.
2. Member States shall apply the payment referred to in this Chapter at national *level*.

~~or, w~~When applying Article 20, *Member States may decide to apply the payment at regional level. In such case, of application at regional level, Member States they* shall use in each region a share of the ceiling set pursuant to paragraph 3. For each region, this share shall be calculated by dividing the respective regional ceiling as established in accordance with Article 20(2) by the ceiling determined *in accordance with to* Article 19(1), *after application of the linear reduction provided for in Article 23(1) in case of application of the second subparagraph of Article 20.*

3. The Commission shall, by means of implementing acts, set out the corresponding ceiling for the payment referred to in this Chapter on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).]

CHAPTER 3  
PAYMENT FOR AREAS WITH NATURAL CONSTRAINTS

*Article 34*

**General rules**

1. Member States may grant a payment to farmers entitled to a payment under the basic payment scheme referred to in Chapter 1 and whose holdings are fully or partly situated in areas with natural constraints designated by Member States in accordance with Article 33(1) of Regulation (EU) No [...] [RDR].
2. Member States may decide to grant the payment referred to in paragraph 1 to all areas falling within the scope of that paragraph or, alternatively, and on the basis of objective and non-discriminatory criteria, to restrict the payment to some of the areas ***designated by Member States in accordance with*** ~~referred to in~~ Article 33(1) of Regulation (EU) No [...] [RDR].
3. Without prejudice to paragraph 2 and to the application of financial discipline, [progressive reduction and capping,] linear reduction ~~as referred in~~ ***in accordance with*** Article 7, and any reductions and exclusions imposed pursuant to Article 65 of Regulation (EU) No [...] [HZR], the payment referred to in paragraph 1 ***of this Article*** shall be granted annually per eligible hectare situated in the areas to which Member States decided to grant a payment in accordance with paragraph 2 of this Article and shall be paid upon activation of payment entitlements on those hectares held by the farmer concerned.

4. The payment per hectare referred to in paragraph 1 shall be calculated by dividing the amount resulting from the application of Article 35 by the number of eligible hectares declared in *accordance with ~~according to~~* Article 26(1) which are situated in the areas to which Member States decided to grant a payment in accordance with paragraph 2 of this Article.
  
5. Member States may apply the payment referred to in ~~this Chapter~~ *paragraph 1* at regional level under the conditions laid down in this paragraph.  
In that case, Member States shall define the regions in accordance with objective and non-discriminatory criteria such as their natural constraint characteristics and agronomic conditions.  
Member States shall divide the national ceiling referred to in Article 35(1) between the regions in accordance with objective and non-discriminatory criteria.  
The payment at regional level shall be calculated by dividing the regional ceiling calculated in accordance with the third subparagraph by the number of eligible hectares declared *in accordance with ~~according to~~* Article 26(1) which are situated in the areas to which Member States decided to grant a payment in accordance with paragraph 2 of this Article.

#### *Article 35*

#### **Financial provisions**

1. In order to finance the payment referred to in Article 34, Member States may decide, by 1 August 2013, to use up to 5 % of their annual national ceiling set out in Annex II. *They shall notify their decision to the Commission by that date.* ~~The decision referred to in the first subparagraph shall be notified to the Commission by the date referred to in that subparagraph.~~  
Member States may, by 1 August 2016, review their decision with effect from 1 January 2017. *They shall notify the Commission of the reviewed percentage by 1 August 2016.*



2. ~~According to~~ *On the basis of* the percentage of the national ceiling to be used by Member States pursuant to paragraph 1, the Commission shall, by means of implementing acts, fix the corresponding ceilings for that payment on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

CHAPTER 4  
PAYMENT FOR YOUNG FARMERS

*Article 36*

**General rules**

1. Member States [shall/*may*]<sup>30</sup> grant an annual payment to young farmers who are entitled to a payment under the basic payment scheme referred to in Chapter 1.
  
2. For the purposes of this Chapter, 'young farmers', shall mean *natural persons*:
  - (a) ~~natural persons~~ who are setting up for the first time an agricultural holding as head of the holding, or who have already set up such a holding during the five years preceding the first submission of an application to the basic payment scheme as referred in Article 73(1) of Regulation (EU) No [...] [HZR], and
  - (b) who are *no more less* than 40 years of age ~~in at~~ the ~~year moment~~ *year moment* of ~~submitting~~ *submission* ~~of the application to the basic payment scheme~~ referred to in point (a).

*Member States may define further objective criteria for young farmers in accordance with Article 2(1)(u) and/or Article 20(4) of Regulation (EU) No [...] [RDR] in order to be eligible for the payment referred to in paragraph 1 of this Article.*
  
3. Without prejudice to the application of financial discipline, [progressive reduction and capping,] linear reductions ~~as referred in~~ *in accordance with* Article 7, and any reductions and exclusions imposed pursuant to Article 65 of Regulation (EU) No [...] [HZR], the payment referred to in paragraph 1 of this Article shall be granted annually upon activation of payment entitlements by the farmer.

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<sup>30</sup> In Council on 22 October 2012, the Presidency noted that neither the proposal of the Commission for a mandatory scheme nor the alternative proposal for a voluntary scheme were able to secure majority support.

4. The payment referred to in paragraph 1 shall be granted per farmer for a period of maximum five years. That period shall be reduced by the number of years elapsed between the setting up and the first submission of the application referred to in point (a) of paragraph 2.
5. Member States shall calculate each year the amount of the payment referred to in paragraph 1 by multiplying *the number of entitlements the farmer has activated in accordance with Article 26(1) by a figure flat rate* corresponding to 25 % of the average value of the payment entitlements held by the farmer *or 25% of an amount calculated by dividing a figure corresponding to a fixed percentage of the national ceiling for the calendar year 2019, as set out in Annex II, by the number of eligible hectares declared in 2014 in accordance with Article 26. The fixed percentage shall be equal to the share of the national ceiling set for the basic payment scheme in accordance with Article 19(1) for 2014.*

When applying the first subparagraph, Member States ~~may set~~ ~~shall respect the following~~ maximum limits in the number of activated payment entitlements that are to be taken into account: *These maximum limits shall be either not below 25 hectares or not below the average size of agricultural holdings in a Member State as set out in Annex VI.*

- ~~(a) — in Member States where the average size of agricultural holdings as set out in Annex VI is lower than, or equal to, 25 hectares, a maximum of 25;~~
- ~~(b) — in Member States where the average size of agricultural holdings as set out in Annex VI is higher than 25 hectares, a maximum that shall be no less than 25 and no greater than that average size.;~~

6. ***In order to guarantee the protection of the rights of beneficiaries and to avoid discrimination among them, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning the conditions under which a legal person may be considered eligible for receiving the payment referred to in paragraph 1, in particular the application of the age limit set out in paragraph 2(b) to one or more natural persons participating in the legal person of this Article.***

*Article 37*

**Financial provisions**

1. In order to finance the payment referred to in Article 36, Member States shall use a percentage of the annual national ceiling set out in Annex II which shall not be higher than 2 %. They shall notify the Commission, by 31 August 2013, of the estimated percentage necessary to finance that payment.
- Member States may, ***every year*** by 31 August **2016**, review their estimated percentage with effect from ***1 January 2017 the subsequent year***. They shall notify the Commission of the reviewed percentage by 31 August **2016 of the year before the revised percentage will apply**.
2. ***Where a Member State chooses to calculate the amount of the payment referred to in paragraph 1 in accordance with Article 5(1)(a), the following applies:***
- (a) Without prejudice to the maximum of 2 % set ~~under~~ ***in*** paragraph 1 ***of this Article***, where the total amount of the payment applied for in a Member State in a particular year exceeds the ceiling set pursuant to paragraph 4 ***of this Article***, and where that ceiling is lower than 2 % of the annual national ceiling set out in Annex II, Member States shall ***finance the difference by applying Article 23(5) in the relevant year and/or by applying apply*** a linear reduction to all payments to be granted to all farmers in accordance with Article 25.

3. (b) Where the total amount of the payment applied for in a Member State in a particular year exceeds the ceiling set pursuant to paragraph 4 *of this Article*, and where that ceiling amounts to 2 % of the annual national ceiling set out in Annex II, Member States shall apply a linear reduction to the amounts to be paid in accordance with Article 36 in order to comply with that ceiling.
- 4.3. On the basis of *either* the estimated *or the fixed* percentage notified by Member States pursuant to paragraph 1, the Commission shall, by means of implementing acts, set the corresponding ceilings for the payment referred to in Article 36 on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

TITLE IV  
COUPLED SUPPORT

CHAPTER 1  
VOLUNTARY COUPLED SUPPORT

*Article 38*

**General rules**

1. Member States may grant coupled support to farmers under the conditions laid down in this Chapter.  
Coupled support may be granted to the following sectors and productions: cereals, oilseeds, protein crops, grain legumes, flax, hemp, rice, nuts, starch potato, milk and milk products, seeds, sheepmeat and goatmeat, beef and veal, olive oil, silk worms, dried fodder, hops, sugar beet, cane and chicory, fruit and vegetables and short rotation coppice.
2. Coupled support may only be granted to *those* sectors or to *those* regions of a Member State where specific types of farming or specific agricultural sectors undergo certain difficulties and are particularly important for economic and/or social and/or environmental reasons.
3. By way of derogation from paragraph 2, coupled support may also be granted to farmers who held, on 31 December 2013, payment entitlements granted in accordance with Section 2 of Chapter 3 of Title III and Article 71m of Regulation (EC) No 1782/2003 and in accordance with Article 60 and the fourth subparagraph of Article 65 of Regulation (EC) No 73/2009; and who are without eligible hectares for the activation of payment entitlements under the basic payment scheme as referred to in Chapter 1 of Title III of this Regulation.

4. Coupled support may only be granted to the extent necessary to create an incentive to maintain current levels of production in the regions concerned.
5. Coupled support shall take the form of an annual payment and shall be granted within defined quantitative limits and based on fixed areas and yields or on a fixed number of animals.
6. Any coupled support granted under this Article shall be consistent with other Union measures and policies.
7. ***In order to ensure efficient and targeted use of Union funds and to avoid double funding under other similar support instruments,*** ~~the~~ Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning:
  - (a) the conditions for granting the support referred to in this Chapter,
  - (b) rules on consistency with other Union measures and on the cumulation of support.

#### *Article 39*

#### **Financial provisions**

1. In order to finance the voluntary coupled support, Member States may decide, by 1 August of the year preceding the first year of implementation of such support, to use up to 5 % of their annual national ceiling set out in Annex II.

2. By way of derogation from paragraph 1, Member States may decide to use up to 10 % of the annual national ceiling set out in Annex II provided that:
- (a) they applied, until 31 December 2013, the single area payment scheme as laid down in Title V of Regulation (EC) No 73/2009, or financed measures under Article 111 of that Regulation, or are concerned by the derogation provided for in Article 69(5), or, in the case of Malta, in Article 69(1) of that Regulation; and/or
  - (b) they allocated, during at least one year in the period 2010-2013, more than 5 % of their amount available for granting the direct payments provided for in Titles III, IV and V of Regulation (EC) No 73/2009, with the exception of Section 6 of Chapter 1 of Title IV, for financing the measures laid down in Section 2 of Chapter 2 of Title III of Regulation (EC) No 73/2009, the support provided for in *subpoints* (i) to (iv) of ~~paragraph 1~~*point* (a) and ~~paragraphs 1~~*in points* (b) and (e) of Article 68(1) of that Regulation, or the measures under Chapter 1, with the exception of Section 6, of Title IV of that Regulation.
3. By way of derogation from paragraph 2, Member States having allocated during at least one year in the period 2010-2013 more than 10 % of their amount available for granting the direct payments provided for in Titles III, IV and V of Regulation (EC) No 73/2009, with the exception of Section 6 of Chapter 1 of Title IV, for financing the measures laid down in Section 2 of Chapter 2 of Title III of Regulation (EC) No 73/2009, the support provided for in *subpoints* (i) to (iv) of ~~paragraph 1~~*point* (a) and ~~paragraphs 1~~*in points* (b) and (e) of Article 68(1) of that Regulation, or the measures under Chapter 1, with the exception of Section 6, of Title IV of that Regulation may decide to use more than 10 % of the annual national ceiling set out in Annex II upon approval by the Commission in accordance with Article 41 *of this Regulation*.



4. Member States may, by 1 August 2016, review their decision pursuant to paragraphs 1, 2 and 3 and decide, with effect from 2017:
  - (a) to increase the percentage fixed pursuant to paragraphs 1 and 2, within the limits laid down therein where applicable, and, where appropriate, modify the conditions for granting the support;
  - (b) to reduce the percentage used for the funding of coupled support and, where appropriate, modify the conditions for granting that support;
  - (c) to cease granting the support under this Chapter.
  
5. On the basis of the decision taken by each Member State pursuant to paragraphs 1 to 4 on the proportion of the national ceiling to be used, the Commission shall, by means of implementing acts, fix the corresponding ceilings for the support on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

#### *Article 40*

#### **Notification**

1. ~~The Member States shall notify the~~ decisions referred to in Article 39 ~~shall be notified~~ to the Commission by the dates referred to in that Article. ~~and, e~~ Except for the decision referred to in Article 39(4)(c), the notification shall include information on the regions targeted, the selected types of farming or sectors and the level of support to be granted.
  
2. The decisions referred to in Article 39(2) and (3), or, where appropriate, in Article 39(4)(a), shall also include a detailed description of the particular situation in the region targeted and of the particular characteristics of the types of farming, or specific agricultural sectors, which make the percentage referred to in Article 39(1) insufficient to address the difficulties referred to in Article 38(2) and which justify an increased level of support.

*Article 41*

**Approval by the Commission**

1. The Commission shall, by means of ~~an~~ implementing acts *adopted without applying the procedure referred to in Article 56(2) or (3)*, approve the decision referred to in Article 39(3), or, where appropriate, in Article 39(4)(a), where one of the following needs in the region or sector concerned is demonstrated:
  - (a) the necessity to sustain a certain level of specific production due to the lack of alternatives and to reduce the risk of production abandonment and the resulting social and/or environmental problems,
  - (b) the necessity to provide stable supply to the local processing industry, thus avoiding the negative social and economic consequence of any ensuing restructuring,
  - (c) the necessity to compensate disadvantages affecting farmers in a particular sector which are the consequence of continuing disturbances on the related market;
  - (d) the necessity to intervene where the existence of any other support available under this Regulation, Regulation (EU) No [...] [RDR] or any approved State aid scheme is deemed insufficient to meet the needs referred to in points (a), (b) and (c).
  
2. The Commission shall, by means of implementing acts, adopt rules on the procedure for the assessment and approval of decisions referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

CHAPTER 2  
CROP SPECIFIC PAYMENT FOR COTTON

*Article 42*

**Scope**

Aid shall be granted to farmers producing cotton falling within CN code 5201 00 under the conditions laid down in this Chapter ("crop specific payment for cotton").

*Article 43*

**Eligibility**

1. The crop specific payment for cotton shall be granted per hectare of eligible area of cotton. In order to be eligible, the area shall be located on agricultural land authorised by the Member State for cotton production, sown under ~~authorised~~ varieties *authorised by the Member State* and actually harvested under normal growing conditions. The crop specific payment for cotton shall be paid for cotton of sound, fair and marketable quality.
2. Member States shall authorise the land and the varieties referred to in paragraph 1 in accordance with the rules and conditions to be adopted pursuant to paragraph 3.
3. ~~To~~ ***In order to*** ensure an efficient management of the crop-specific payment for cotton, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning rules and conditions for the authorisation of land and varieties for the purposes of the crop specific payment for cotton.

4. The Commission shall, by means of implementing acts, adopt rules on the procedure of the authorisation *of land and varieties for the purposes of the crop specific payment for cotton* and the notifications to the producers related to this authorisation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

#### *Article 44*

#### **Base areas, fixed yields and reference amounts**

1. The following national base areas are established:
  - Bulgaria: 3 342 ha,
  - Greece: 250 000 ha,
  - Spain: 48 000 ha,
  - Portugal: 360 ha.
  
2. The following fixed yields in the reference period are established:
  - Bulgaria: 1,2 tonne/ha,
  - Greece: 3,2 tonne/ha,
  - Spain: 3,5 tonne/ha,
  - Portugal: 2,2 tonne/ha.
  
3. The amount of the crop specific payment per hectare of eligible area shall be established by multiplying the yields established in paragraph 2 with the following reference amounts:
  - Bulgaria: EUR 523,02 in 2014; EUR 588,06 in 2015; and EUR 661,79 for 2016 and onwards
  - Greece: EUR 238,86
  - Spain: EUR 369,33
  - Portugal: EUR 232,57

4. If the eligible area of cotton in a given Member State and in a given year exceeds the base area established in paragraph 1, the amount referred to in paragraph 3 for that Member State shall be reduced proportionately to the overrun of the base area.
5. In order to ~~enable~~ **make** the application of the crop-specific payment for cotton **possible**, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning rules on the conditions for the granting of ~~that the crop-specific~~ payment ~~for cotton~~, on the eligibility requirements and ~~the~~ **on** agronomic practices.
6. The Commission may, by means of implementing acts, provide for rules on the calculation of the reduction provided for in paragraph 4. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

#### *Article 45*

#### **Approved inter-branch organisations**

1. For the purpose of this Chapter, an ‘approved inter-branch organisation’ shall mean a legal entity made up of farmers producing cotton and at least one ginner, carrying out activities such as:
  - (a) helping to coordinate better the way cotton is placed on the market, particularly through research studies and market surveys;
  - (b) drawing up standard forms of contract compatible with Union rules;
  - (c) orienting production towards products that are better adapted to market needs and consumer demand, particularly in terms of quality and consumer protection;
  - (d) updating methods and means to improve product quality;
  - (e) developing marketing strategies to promote cotton via quality certification schemes.

2. The Member State where the ginners are established shall approve interbranch organisations that satisfy the criteria to be laid down pursuant to paragraph 3.
3. *In order to enable the efficient application of the crop-specific payment for cotton,* ~~the~~ Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning:
  - (a) criteria for the approval of inter-branch organisations;
  - (b) obligations for producers;
  - (c) rules ~~for governing~~ the situation where the approved inter-branch organisation does not ~~respect~~ *satisfy* those criteria.

*Article 46*

**Granting of the payment**

1. Farmers shall be granted the crop specific payment for cotton per eligible hectare as established in Article 44.
2. Farmers who are members of an approved inter-branch organisation shall be granted the crop specific payment for cotton per eligible hectare within the base area laid down in Article 44(1), increased by an amount of EUR 2.

TITLE V  
SMALL FARMERS SCHEME

*Article 47*

**General rules**

1. *Member States may establish a scheme in accordance with the conditions laid down in this Title (hereinafter referred to as 'small farmers scheme').*

Farmers holding payment entitlements ~~allocated in 2014 pursuant to Article 21~~ and fulfilling the minimum requirements provided for in Article 10(1) may opt for participation in ~~a simplified this scheme under the conditions laid down in this Title, (hereinafter referred to as 'small farmers scheme').~~

2. Payments under the small farmers scheme shall replace the payments to be granted pursuant to Titles III and IV.
3. Farmers participating in the small farmers scheme shall be exempted from the agricultural practices provided for in Chapter 2 of Title III.
4. *No advantage provided for under this Title shall be granted in favour of Member States ~~shall ensure that no payment is made to farmers for whom in respect of whom it is established that, as from 19 October 2011 the date of publication of the Commission proposal for this Regulation, they artificially created the conditions to benefit from the support divide their holding with the sole purpose of benefiting from the small farmers scheme under this Title. This shall also apply to farmers whose holdings result from that division.~~*

## Participation

1. Farmers wishing to participate in the small farmers scheme shall submit an application by *a date to be fixed by Member States but not later than 15 October 2014. The date fixed by Member States cannot, however be earlier than the last day for submission of an application to the basic payment scheme. Member States shall ensure that an estimate of the amount of the payment referred to in Article 49 is made known to farmers before the date of application fixed by the Member State.*

Farmers not having applied for participation in the small farmers scheme by ~~15 October 2014~~ *the date fixed by the Member State* or deciding to withdraw from it after that date or selected for support under Article 20(1)(c) of Regulation (EU) No [...] [RDR] shall no longer have the right to participate in that scheme.

2. *By way of derogation from paragraph 1, Member States which set the amount of the annual payment for each farmer participating in the small farmers scheme according to Article 49(1)(c) may provide that those farmers whose amount of aid is below a figure to be determined by that Member State, but which does not exceed EUR 1000, shall be included in the small farmers scheme automatically unless they expressly inform the Member State of their wish to opt out of the scheme by 15 October 2014.*



Article 49

**Amount of the payment**

1. Member States shall set the amount of the annual payment for *each farmer participating in* the small farmers scheme at one of the following levels, subject to paragraphs 2 and 3:
  - (a) an amount not exceeding 15 % of the national average payment per beneficiary;
  - (b) an amount corresponding to the national average payment per hectare multiplied by a figure corresponding to the number of hectares with a maximum of three;
  - (c) *an amount equal to the total value of the payments to be allocated to the farmer in 2014 as a basic payment referred to in Chapter 1 of Title III, as a payment for agricultural practices beneficial for the climate and the environment referred to in Chapter 2 of Title III and, where applicable, as a payment for areas with natural constraints referred to in Chapter 3 of Title III, as a payment for young farmers referred to in Chapter 4 of Title III and as coupled support referred to in Title IV.*

The national average referred to in point (a) of the first subparagraph shall be established by the Member States on the basis of the national ceiling set in Annex II for calendar year 2019 and the number of farmers having obtained payment entitlements pursuant to Article 21(1).

The national average referred to in point (b) of the first subparagraph shall be established by the Member States on the basis of the national ceiling set in Annex II for calendar year 2019 and the number of eligible hectares declared in accordance with Article 26 in 2014.

- 2a. *The amounts referred to in paragraphs 1(a) and 1(b) shall not be lower than EUR 500 and not be higher than EUR 1 000. Without prejudice to Article 51(1), where the application of paragraphs 1(a) and 1(b) results in an amount lower than EUR 500 or higher than EUR 1 000, the amount shall be rounded up or down, respectively, to the minimum or maximum amount.*

2. The amount referred to in paragraph 1(c) shall not ~~be lower than EUR 500 and not~~ be higher than EUR 1 000. Without prejudice to Article 51(1), where the application of paragraph 1(c) results in an amount lower than EUR 500, ***Member States may decide to round up this amount to EUR 500. or higher than EUR 1 000, the amount shall be rounded up or down, respectively, to the minimum or maximum amount.***
3. By way of derogation from paragraphs *2a and 2*, in *Croatia*, Cyprus, *Slovenia* and Malta the amount referred to in paragraph 1 may be set at a value lower than EUR 500, but not less than EUR 200 ***or, in the case of Malta, not less than EUR 50.***

#### *Article 50*

#### **Special conditions**

1. During the participation in the small farmers scheme, farmers shall:
  - (a) keep at least a number of hectares corresponding to the number of entitlements held;
  - (b) fulfil the minimum requirement provided for in Article 10(1)(b).
2. Payment entitlements activated in 2014 pursuant to Articles 25 and 26 by a farmer participating in the small farmers scheme shall be considered as activated entitlements for the duration of the participation of the farmer in that scheme.

The payment entitlements held by the farmer during the participation in that scheme shall not be considered as unused payment entitlements reversible to the national reserve within the meaning of Article 24(1)(b).

3. By way of derogation from Article 27, payment entitlements held by farmers participating in the small farmers scheme shall not be transferable, except in case of inheritance or anticipated inheritance. Farmers who by way of inheritance or anticipated inheritance receive payment entitlements from a farmer participating in the small farmers scheme shall be eligible for participation in that scheme provided they meet the requirements to benefit from the basic payment scheme and that they inherit all the payment entitlements held by the farmer from whom they receive the payment entitlements.
  
4. ***In order to ensure legal certainty,*** ~~The~~ Commission shall be empowered to adopt delegated acts in accordance with Article 55 ~~concerning~~ ***setting out*** the conditions for participation in the scheme where the situation of the participating farmer changes.

Article 51

**Financial provisions**

1. In order to finance the payment referred to in this Title, Member States shall deduct the amounts corresponding to the amounts to which the small farmers would be entitled as a basic payment referred to in Chapter 1 of Title III, as a payment for agricultural practices beneficial for the climate and the environment referred to in Chapter 2 of Title III and, where applicable, as a payment for areas with natural constraints referred to in Chapter 3 of Title III, as a payment for young farmers referred to in Chapter 4 of Title III and as coupled support referred to in Title IV from the total amounts available for the respective payments. The difference between the sum of all payments due under the small farmers scheme and the total amount financed in accordance with the first sub-paragraph shall be financed *in one or more of the following ways*:
  - (a) by applying ~~a linear reduction to all payments to be granted in accordance with~~ Article 23(5) *in the relevant year*;
  - (b) *by using the funds left unused in the relevant year, to finance the payment for young farmers laid down in Chapter 4 of Title III*;
  - (c) *by applying a linear reduction to all payments to be granted in accordance with Article 25*.

The elements on the basis of which the amounts referred to in the first subparagraph are established shall remain the same for the entire duration of the participation of the farmer in the scheme.

2. If the total amount of payments due under the small farmers scheme exceeds 10 % of the annual national ceiling set out in Annex II, Member States *which set the amount of the annual payment either according to Article 49(1)(a) or (b), or according to Article 49(1)(c) in conjunction with Article 49(2)*, shall apply a linear reduction to the amounts to be paid in accordance with this Title in order to respect that percentage.

TITLE VI  
NATIONAL RESTRUCTURING PROGRAMMES FOR THE COTTON SECTOR

*Article 52*

**Use of the annual budget for the restructuring programmes**

1. For Member States which have applied the first subparagraph of Article 4(1) of Regulation (EC) No 637/2008, the relevant annual budget available pursuant to Article 5(1) of that Regulation shall be transferred with effect from 1 January 2014 **as and shall constitute** additional Union funds for measures under rural development programming financed under Regulation (EU) No [...] [RDR].
  
2. For Member States which have applied the second subparagraph of Article 4(1) of Regulation (EC) No 637/2008, **the relevant annual budget available pursuant to their annual budget as referred to in** Article 5(1) of that Regulation is included with effect from 1 January 2017 in their national ceilings as set out in Annex II to this Regulation.

TITLE VII  
FINAL PROVISIONS

CHAPTER 1  
NOTIFICATIONS AND EMERGENCY

*Article 53*

**Notification requirements**

1. *In order to ensure correct application of the rules set out in this Regulation, ~~the~~* Commission shall be empowered to adopt delegated acts in accordance with Article 55, on the necessary measures regarding notifications to be made by Member States *to the Commission* for the purposes of this Regulation or for the purpose of checking, controlling, monitoring, evaluating and auditing direct payments, *and for implementing complying with requirements laid down in* international agreements, *which have been concluded by a Council decision*, including notification requirements under those agreements. In so doing it shall take into account the data needs and synergies between potential data sources.

The information obtained may, where appropriate, be transmitted or made available to international organisations, *and* the competent authorities of third countries and may be made public, subject to the protection of personal data and the legitimate interest of undertakings in the protection of their business secrets.

2. ~~Taking into account the need~~ *In order* to make notifications referred to in paragraph 1 fast, efficient, accurate, and cost effective, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 for the purpose of laying down *further rules on*:
- (a) the nature and type of the information to be notified;
  - ~~(b) the methods of notification;~~

- (bb) the categories of data to be processed and maximum retention periods;*
- (c) the rules related to the access rights to the information or information systems made available;
- (d) the conditions ~~and means~~ of publication of the information.

3. The Commission shall, by means of implementing acts, adopt:

*(aa) the methods of notification;*

- (a) rules on providing the information as necessary for the application of this Article;
- (b) arrangements for the management of the information to be notified, as well as rules on content, form, timing, frequency and deadlines of the notifications;
- (c) arrangements for transmitting or making information and documents available to the Member States, international organisations, the competent authorities in third countries, or the public, subject to the protection of personal data and the legitimate interest of farmers and undertakings in the protection of their business secrets.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

*Article 53a*

*Processing and protection of personal data*

- 1. *Member States and the Commission shall collect personal data for the purposes set out in Article 53(1) and shall not process this data in a way incompatible with these purposes.*
- 2. *Where personal data are processed for monitoring and evaluation purposes as referred to in Article 53(1), 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 54*

#### **Measures to resolve specific problems**

1. The Commission shall ~~, by means of~~ adopt *implementing acts* ~~the measures~~ which are both necessary and justifiable in an emergency, in order to resolve specific problems. Such ~~measures~~ *implementing acts* may derogate from provisions of this Regulation, 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 56(2).
2. ~~On~~ *Where* duly justified imperative grounds of urgency *so require, in order to resolve such specific problems while ensuring the continuity of the direct payments system in case of extraordinary circumstances* ~~relating to the measures referred to in paragraph 1~~, the Commission shall adopt immediately applicable implementing acts, in accordance with the procedure referred to in Article 56(3).



CHAPTER 2  
DELEGATIONS OF POWERS AND IMPLEMENTING PROVISIONS

Article 55

**Exercise of the delegation**

1. The power to adopt the delegated acts 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 2, 4(2), 6(2), 7(3), 8(3), 9(3), 17b(6), 28, 30(2), 31(3), 32(2), 36(6), 38(7), 43(3), 44(5), 45(3), 50(4), 53(1) and (2) and 58* shall be conferred on the Commission for ~~an indeterminate a~~ period of ~~time~~ *seven years* from [*insert date of the* 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 power referred to in *Articles 2, 4(2), 6(2), 7(3), 8(3), 9(3), 17b(6), 28, 30(2), 31(3), 32(2), 36(6), 38(7), 43(3), 44(5), 45(3), 50(4), 53(1) and (2) and 58* ~~this Regulation~~ may be revoked at any time by the European Parliament or by the Council. A decision ~~of revocation to revoke~~ 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 *Articles 2, 4(2), 6(2), 7(3), 8(3), 9(3), 17b(6), 28, 30(2), 31(3), 32(2), 36(6), 38(7), 43(3), 44(5), 45(3), 50(4), 53(1) and (2) and 58* **this Regulation** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 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 2 months at the initiative of the European Parliament or *of* the Council.

#### *Article 56*

#### **Committee procedure**

1. The Commission shall be assisted by a Committee called *the* "Committee for Direct Payments". That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. 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 Articles 21(4), 24(2) and 53(3)<sup>31</sup>, 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.*
3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

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<sup>31</sup> To be adjusted as appropriate in the light of developments in the Council position on greening.

CHAPTER 3  
TRANSITIONAL AND FINAL PROVISIONS

*Article 57*

**Repeals**

1. Regulation (EC) No 637/2008 is repealed *with effect from 1 January 2014*.  
However, it continues to apply until 31 December 2017 in respect of Member States which have exercised the option laid down in the second sub-paragraph of Article 4(1) of that Regulation.
  
2. Regulation (EC) No 73/2009 is repealed *with effect from 1 January 2014*.

Without prejudice to paragraph 3, references to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex VII.

3. The references made in this Regulation to Regulations (EC) No 73/2009 and (EC) No 1782/2003 shall be understood as **referring being made** to those Regulations such as they were in force before their repeal.

*Article 58*

**Transitional rules**

In order to ensure a smooth transition from the arrangements provided for in Regulation (EC) No 73/2009 to those laid down in this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning the necessary measures to protect the acquired rights and legitimate expectations of farmers.

*Article 59*

**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, Articles 14, **18(2)**, 20(5), 22(6), 35(1), 37(1) and 39 shall apply from the date of entry into force of this Regulation.

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*

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## ANNEX I

### List of support schemes

Sector	Legal base	Notes
Basic payment	Title III, Chapter 1 of this Regulation	Decoupled payment
Payment for farmers following agricultural practices beneficial for the climate and the environment	Title III, Chapter 2 of this Regulation	Decoupled payment
Payment for farmers in areas with specific natural constraints	Title III, Chapter 3 of this Regulation	Decoupled payment
Payment for young farmers	Title III, Chapter 4 of this Regulation	Decoupled payment
Voluntary coupled support	Title IV, Chapter 1 of this Regulation	
Cotton	Title IV, Chapter 2 of this Regulation	Area payment
Payment for small farmers	Title V of this Regulation	Decoupled payment
Posei	Title III of Regulation (EC) No 247/2006	Direct payments under measures established in the programmes
Aegean islands	Chapter III of Regulation (EC) No 1405/2006	Direct payments under measures established in the programmes

## ANNEX II

### National ceilings referred to in Article 6

(In thousands EUR)

Calendar year	2014	2015	2016	2017	2018	2019 and subsequent year
Belgium	553 521	544 065	534 632	525 205	525 205	525 205
Bulgaria	655 661	737 164	810 525	812 106	812 106	812 106
Czech Republic	892 698	891 875	891 059	890 229	890 229	890 229
Denmark	942 931	931 719	920 534	909 353	909 353	909 353
Germany	5 275 876	5 236 176	5 196 585	5 156 970	5 156 970	5 156 970
Estonia	108 781	117 453	126 110	134 749	134 749	134 749
Ireland	1 240 652	1 239 027	1 237 413	1 235 779	1 235 779	1 235 779
Greece	2 099 920	2 071 481	2 043 111	2 014 751	2 014 751	2 014 751
Spain	4 934 910	4 950 726	4 966 546	4 988 380	4 988 380	4 988 380
France	7 732 611	7 694 854	7 657 219	7 619 511	7 619 511	7 619 511
<b>Croatia</b>	<b>111 900</b>	<b>130 550</b>	<b>149 200</b>	<b>186 500</b>	<b>223 800</b>	<b>261 100*</b>
Italy	4 023 865	3 963 007	3 902 289	3 841 609	3 841 609	3 841 609
Cyprus	52 273	51 611	50 950	50 290	50 290	50 290
Latvia	163 261	181 594	199 895	218 159	218 159	218 159
Lithuania	396 499	417 127	437 720	458 267	458 267	458 267
Luxembourg	34 313	34 250	34 187	34 123	34 123	34 123
Hungary	1 298 104	1 296 907	1 295 721	1 294 513	1 294 513	1 294 513
Malta	5 316	5 183	5 050	4 917	4 917	4 917
Netherlands	806 975	792 131	777 320	762 521	762 521	762 521
Austria	707 503	706 850	706 204	705 546	705 546	705 546
Poland	3 038 969	3 066 519	3 094 039	3 121 451	3 121 451	3 121 451
Portugal	573 046	585 655	598 245	610 800	610 800	610 800
Romania	1 472 005	1 692 450	1 895 075	1 939 357	1 939 357	1 939 357
Slovenia	141 585	140 420	139 258	138 096	138 096	138 096
Slovakia	386 744	391 862	396 973	402 067	402 067	402 067
Finland	533 932	534 315	534 700	535 075	535 075	535 075
Sweden	710 853	711 798	712 747	713 681	713 681	713 681
United-Kingdom	3 624 384	3 637 210	3 650 038	3 662 774	3 662 774	3 662 774

*\*For Croatia the national ceiling for calendar year 2020 is 298 400, for 2021 is 335 700 and for 2022 is 373 000 (in thousands EUR).*

## ANNEX III

### Net ceilings referred to in Article 7

(In million EUR)

Calendar year	2014	2015	2016	2017	2018	2019 and subsequent year
Belgium	553.5	544.1	534.6	525.2	525.2	525.2
Bulgaria	656.2	733.6	799.7	801.2	801.2	801.2
Czech Republic	892.5	891.7	890.9	890.0	890.0	890.0
Denmark	942.8	931.6	920.4	909.3	909.3	909.3
Germany	5 275.3	5 235.6	5 196.1	5 156.5	5 156.5	5 156.5
Estonia	108.8	117.5	126.1	134.7	134.7	134.7
Ireland	1 240.7	1 239.0	1 237.4	1 235.8	1 235.8	1 235.8
Greece	2 253.2	2 226.5	2 199.8	2 173.1	2 173.1	2 173.1
Spain	4 978.9	4 994.4	5 010.0	5 031.4	5 031.4	5 031.4
France	7 732.6	7 694.9	7 657.2	7 619.5	7 619.5	7 619.5
<b>Croatia</b>	<b>111.9</b>	<b>130.6</b>	<b>149.2</b>	<b>186.5</b>	<b>223.8</b>	<b>261.1*</b>
Italy	4 023.6	3 962.8	3 902.1	3 841.4	3 841.4	3 841.4
Cyprus	52.3	51.6	51.0	50.3	50.3	50.3
Latvia	163.3	181.6	199.9	218.2	218.2	218.2
Lithuania	396.5	417.0	437.6	458.1	458.1	458.1
Luxembourg	34.3	34.2	34.2	34.1	34.1	34.1
Hungary	1 289.2	1 288.0	1 286.8	1 285.7	1 285.7	1 285.7
Malta	5.3	5.2	5.0	4.9	4.9	4.9
Netherlands	807.0	792.1	777.3	762.5	762.5	762.5
Austria	707.5	706.9	706.2	705.5	705.5	705.5
Poland	3 038.9	3 066.4	3 093.9	3 121.4	3 121.4	3 121.4
Portugal	573.2	585.8	598.4	611.0	611.0	611.0
Romania	1 468.0	1 684.0	1 880.9	1 924.0	1 924.0	1 924.0
Slovenia	141.6	140.4	139.3	138.1	138.1	138.1
Slovakia	384.4	389.5	394.5	399.4	399.4	399.4
Finland	533.9	534.3	534.7	535.1	535.1	535.1
Sweden	710.9	711.8	712.7	713.7	713.7	713.7
United-Kingdom	3 534.9	3 547.1	3 559.2	3 571.3	3 571.3	3 571.3

*\*For Croatia the estimated net ceiling for calendar year 2020 is 298.4, for 2021 is 335.7 and for 2022 is 373 (in million EUR).*

## ANNEX IV

### Coefficients to be applied under Article 10(1)

Member State	Limit for the EUR threshold (Article 10(1)(a))	Limit for the hectare threshold (Article 10(1)(b))
Belgium	400	2
Bulgaria	200	0,5
Czech Republic	200	5
Denmark	300	5
Germany	300	4
Estonia	100	3
Ireland	200	3
Greece	400	0,4
Spain	300	2
France	300	4
<b>Croatia</b>	<b>100</b>	<b>1</b>
Italy	400	0,5
Cyprus	300	0,3
Latvia	100	1
Lithuania	100	1
Luxemburg	300	4
Hungary	200	0,3
Malta	500	0,1
Netherlands	500	2
Austria	200	2
Poland	200	0,5
Portugal	200	0,3
Romania	200	0,3
Slovenia	300	0,3
Slovakia	200	2
Finland	200	3
Sweden	200	4
United Kingdom	200	5



## ANNEX V

### Financial provisions applying to Bulgaria and Romania referred to in Articles 16 and 17

A. Amounts for calculating the national ceilings for payments referred to in Article 16:

*(in thousands EUR)*

	2014	2015
Bulgaria	805 847	808 188
Romania	1 802 977	1 849 068

B. Total amount of complementary national direct payments to the basic payment scheme referred to in Article 17(2):

*(in thousands EUR)*

	2014	2015
Bulgaria	150 186	71 024
Romania	330 971	156 618

C. Total amount of complementary national direct payments to the crop specific payment for cotton referred to in Article 17(3):

*(in EUR)*

	2014	2015
Bulgaria	556 523	295 687

**ANNEX Va**

**Financial provisions applying to Croatia referred to in Articles 10 and 17a**

**A. Amounts for applying Article 10:**

*(in thousands EUR)*

<i>Croatia</i>	<i>373 000</i>

**B. Total amount of complementary national direct payments referred to in Article 17a(3):**

*(in thousands EUR)*

	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>
<i>Croatia</i>	<i>261 100</i>	<i>242 450</i>	<i>223 800</i>	<i>186 500</i>	<i>149 200</i>	<i>111 900</i>	<i>74 600</i>	<i>37 300</i>

**ANNEX Vb**

**Maximum amount to be added to the amounts set out in Annex II in accordance with**

**Article 17b(2)**

**(in thousands EUR)**

	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>
<i>Croatia</i>	<i>2 880</i>	<i>3 360</i>	<i>3 840</i>	<i>4 800</i>	<i>5 760</i>	<i>6 720</i>	<i>7 680</i>	<i>8 640</i>	<i>9 600</i>

## ANNEX VI

### Average size of agricultural holding to be applied under Article 36(5)

Member State	Average size of agricultural holding (in hectares)
Belgium	29
Bulgaria	6
Czech Republic	89
Denmark	60
Germany	46
Estonia	39
Ireland	32
Greece	5
Spain	24
France	52
<b>Croatia</b>	<b>5,9</b>
Italy	8
Cyprus	4
Latvia	16
Lithuania	12
Luxemburg	57
Hungary	7
Malta	1
Netherlands	25
Austria	19
Poland	6
Portugal	13
Romania	3
Slovenia	6
Slovakia	28
Finland	34
Sweden	43
United Kingdom	54

## ANNEX VII

### CORRELATION TABLE

Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No [...] [HZR]
Article 1	Article 1	-
-	Article 2	-
Article 2	Article 4	-
-	Article 5(2)	-
Article 3	Article 5	-
Article 4(1)	-	Article 91
Article 4(2)	-	Article 95
Article 5	-	Article 93
Article 6(1)	-	Article 94
Article 6(2)	-	-
Article 7	-	-
Article 8(1) and (2)	Article 7(1) and (3)	-
-	Article 7(2)	-
Article 9	-	-
Article 10	-	-
Article 11(1) and (2)	-	Article 25(1) and (2)
-	Article 8	-
Article 12(1) and (2)	-	Article 12
Article 12(3)	-	Article 14
Article 12(4)	-	-
Article 13	-	Article 13(2)
Article 14	-	Article 68
Article 15	-	Article 69
Article 16	-	Article 70
Article 17	-	Article 71
Article 18	-	Article 72
Article 19	-	Article 73
Article 20	-	Article 75
Article 21	-	Article 75(4)
Article 22	-	Article 96
Article 23	-	Article 97
Article 24	-	Article 99
Article 25	-	Article 100
Article 26	-	Article 63
Article 27(1)	-	Article 102(3)
Article 27(2)	-	Article 49
Article 27(3)	-	Article 69(3)

-	Article 9	-
Article 28(1) and (2)	Article 10(1), (3) and (4)	-
-	Article 10(2)	-
Article 28(3)	Article 23(1)(a)(ii)	-
-	Article 23(1)(a)(i), (c) and (d)	-
-	Article 11	-
Article 29	-	Article 76
Article 30	-	Article 62
Article 31	-	Article 2(2)
Article 32	Article 15	-
Article 33(1)	Article 18(1)	-
-	Article 18(2)	-
Article 34(1) and (2)	Article 25(1) and (2)	-
Article 35	Article 26	-
Article 36	-	-
Article 37	Article 12	-
-	Article 14	-
Article 38	-	-
Article 39(1)	Article 25(3)	-
Article 40(1)	Article 6(1)	-
Article 40(2)	Article 19(3)	-
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