Council of the European Union
General Secretariat

Interinstitutional files:
2018/0217(COD)

Brussels, 16 October 2020

WK 10645/2020 ADD 1 REV 1

LIMITE

AGRI
AGRILEG
AGRIFIN
AGRISTR
AGRIORG
CODEC

WORKING PAPER

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Financial Agricultural Questions
N° Cion doc.:	9634/18 + ADD 1 + REV 1
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013 - Comments from the Luxembourg delegation on the drafting suggestion from the Commission

Delegations will find attached a revised version of comments from the Luxembourg delegation on the drafting suggestion and explanations from the Commission services related to Articles 57 (Protection of the financial interests of the Union) in the proposed Horizontal Regulation.

LIMITE **EN**

LU comments on document WK 10645/2020 from 6 October 2020 regarding suggestions and explanations from the Commission services related to Articles 57 (Protection of the financial interests of the Union) in the proposed Horizontal Regulation.

The Luxemburgish delegation would like to thank the EC services for the drafting suggestions and the explanations. However, we have some questions and doubts we would like to be clarified.

Frist of all, we would like to underline that basically we do not close ourselves off such a proposal or a tool that would allow us to create the conditions for more efficient controls on conflict of interests, or on circumvention of rules on SME status. Nevertheless, for now it seems to us quiet difficult to estimate the effort respectively the additional administrative burden this would imply for both, the paying agency as well as for the beneficiaries. Despite this, when we are talking about additional administrative burden this will also generate additional costs for the Member States. In a first step, we need to adapt all our IT systems and harmonize the information in such a way ARACHNE could easily access the information and use it in a comparable way. This exercise needs to be coordinated in all MS. We believe that this preliminary work also needs a lot of time and generates considerable costs.

At this point, we would like to remind article 58 paragraph 1 (b) of regulation 1306/2013:

Member States shall, within the framework of the CAP, adopt all legislative, regulatory and administrative provisions and take any other measures necessary to ensure effective protection of the financial interests of the Union, in particular to:

…

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

…

Considering all this, we are wondering if the cost-benefit ratio of the implementation and the use of the ARACHNE system is still given and if the measures taken are proportionate.

In conclusion, the Luxemburgish Delegation would like to propose to leave the use of the ARACHNE system or any other single data mining tools on a voluntary basis. In this context and in order to take account of the principle of proportionality we could also well imagine introducing a rule similar to that one that has already been introduced with regulation 907/2014 concerning International Standards Organization 27001 which leaves the MS the possibility to decide not to apply ISO 27001 below EUR 400 million yearly expenditure. "For paying agencies responsible for the management and control of a yearly expenditure not higher than EUR 400 million, the Member State may decide not to apply the provisions of the first subparagraph. Those Member States shall continue to apply the provisions of point (i). They shall inform the Commission of their decision."

Moreover, we would also suggest scheduling a transitional period for the implementation of this tool.