



Council of the European Union
General Secretariat

**Interinstitutional files:
2018/0217(COD)**

Brussels, 13 October 2020

WK 10645/2020 ADD 1

LIMITE

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WORKING PAPER

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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 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.

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.

First 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 quite 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.

Finally, we are also wondering if the ARACHNE tool would be in line with the General Data Protection Regulation (GDPR). Are the rights of the concerned individuals still respected? We would like to have the opinion of the Council Legal Service on these questions.

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