



Council of the European Union
General Secretariat

**Interinstitutional files:
2018/0216(COD)**

Brussels, 04 October 2018

WK 10820/2018 ADD 2

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WORKING PAPER

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From:	General Secretariat of the Council
To:	Working Party on Horizontal Agricultural Questions (CAP Reform)
N° Cion doc.:	9634/18 + COR 1 + ADD 1
Subject:	Proposal for a Regulation on Financing, management and monitoring of the CAP - Additional comments received from Member States

Following the request from the Presidency on 19 September 2018 (WK 10820 2018 INIT), delegations will find in the Annex additional comments received from the Italian and Dutch delegations.

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ITALY

DATE	MEMBER STATE
26/09/2018	Italy

TITLE IV: CONTROL SYSTEMS AND PENALTIES**Chapter II: Integrated administration and control system**

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
Article 63	<p>The Horizontal Regulation proposal establishes of an Integrated Administration and Control System by Member States. The general framework takes over what was already in place in the 2014-2020 programming period. However, new important features are introduced (i.e.: the “monitoring system”, the “claimless system”) and some aspects, which were already enshrined (i.e.: the geospatial demand), are reaffirmed. According to regulation proposal, Member States shall define at national level many elements that are well defined at EU level in the current programming period.</p> <p>Nevertheless, the proposal foresees that some very important issues shall be established in delegated and implementing acts such as, in particular, the set of rules on quality assessment of the identification system of agricultural parcels, beneficiaries identification system, control and sanctions system as well as corrective measures (action plans) that Member States shall implement if the quality assessment finds deficiencies.</p> <p>From a general point of view, IT is not against empowering EC to adopt delegate acts: we need just to know, in advance, delegation technical contents (to be assessed during Council WPs).</p> <p>In addition, more detailed items should be included in the basic act to ensure legal certainty and equal treatment among Member States.</p> <p>As a general request, could the Commission clarify whether or not the establishment of the integrated administration and control system and its implementation may be supported by</p>	

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
	Technical Assistance funds?	
<i>Paragraph 1</i>		
<i>Paragraph 2</i>		
<i>Paragraph 3</i>	<p>According to the proposal, the integrated system shall be used for the management and control of conditionality and measures in the wine sector as laid down in Title III of CAP Strategic Plan Regulation:</p> <ul style="list-style-type: none"> What is the 'extent necessary' for which IACS will be used for conditionality and measures in the wine sector, too? Could EC provide for some examples on this regard? 	
<i>Paragraph 4</i>		
Article 64		
<i>Paragraph 1</i>		
<i>Paragraph 2</i>	As already stated in the general remark in Article 63, could EC confirm that Technical Assistance may support the establishment of electronic databases and geographical information systems as well as systems for the exchange of data between the abovementioned system?	
<i>Paragraph 3</i>	<p>Without prejudice to the competence of MSs, we would appreciate very much to receive expert advice from EC on implementation and application of integrated system.</p> <ul style="list-style-type: none"> In the current relevant disposal MS may ask for the abovementioned expert advice from EC: why in the proposal there is no more this possibility to ask for such advice? Who is in charge to state as “necessary” such advice? 	
<i>Paragraph 4</i>		
Article 65		
<i>Paragraph 1</i>		
<i>Paragraph 2</i>	<p>According to the proposal, MS may record and keep data and documentation at regional level.</p> <ul style="list-style-type: none"> Who is the body in charge for such activity? (i.e.: intermediate bodies? Regional Paying Agencies?) 	

CAP Strategic Plans Regulation - comments and drafting suggestions

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
<i>Paragraph 3</i>	<p>According to the proposal, MS ensure that data collected through the integrated system are shared, free of charge, between public authorities and made available both at national level and EU level.</p> <p>In our opinion, the same data should be shared, free of charge, among MS for the purposes of transparency and information exchange.</p>	
<i>Paragraph 4</i>		
<i>Paragraph 5</i>		
Article 66		
<i>Paragraph 1</i>		
<i>Paragraph 2</i>	<p>Point (d):</p> <ul style="list-style-type: none"> • Could the Commission clarify which are the indicators referred to in Article 7 of the CAP Strategic Plans Regulation? Which of those are in Annex I of the CAP Strategic Plans Regulation? Anyhow, “common context indicator” should not be covered: could EC confirm our understanding? 	
<i>Paragraph 3</i>	<p>Regarding the annual quality assessment of the agricultural parcel identification system, more details are requested:</p> <ul style="list-style-type: none"> - on the scope of these assessments; - on action plans and corrective actions in case of evidence of system deficiencies. <p>The proposal says: “<i>Member States shall annually assess the quality of the identification system for agricultural parcels in accordance with the methodology set up at Union level.</i>”</p> <p>When is such methodology supposed to be elaborated? Will such methodology be established either in a legal disposal or in a working document?</p>	
Article 67		
<i>Paragraph 1</i>		
<i>Paragraph 2</i>		
<i>Paragraph 3</i>		
<i>Paragraph 4</i>	<p>Related to “claimless system”:</p> <ul style="list-style-type: none"> • which elements does this system contain? 	

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
	<ul style="list-style-type: none"> • what are the sources of the system data? • where do the data (for the first year of implementation of the CAP strategic plan) come from? • what about subsequent years? 	
<i>Paragraph 5</i>	<p>Regarding the annual quality assessment, more details are requested:</p> <ul style="list-style-type: none"> - on the scope of these assessments; - on action plans and corrective actions in cases of evidence of system deficiencies. <p>The proposal says: “Member States shall annually assess the quality of the identification system for agricultural parcels in accordance with the methodology set up at Union level.” When is such methodology supposed to be elaborated? Will such methodology be established either in a legal disposal or in a working document?</p>	
Article 68		
<i>Paragraph 1</i>		
<i>Paragraph 2</i>	<p>Regarding the annual quality assessment, more details are requested:</p> <ul style="list-style-type: none"> - on the scope of these assessments; - on action plans and corrective actions in cases of evidence of system deficiencies. <p>The proposal says: “Member States shall annually assess the quality of the identification system for agricultural parcels in accordance with the methodology set up at Union level.” When is such methodology supposed to be elaborated? Will such methodology be established either in a legal disposal or in a working document?</p>	
Article 69		
Article 70	<p>According to the new delivery model, there is the possibility to decide at national level on a number of items of the CAP strategic plans. However, control and sanctions system should be included in the basic Regulation, by defining common items at EU level, in order to ensure equal treatment among MSs.</p> <p>A full referral of responsibility to MSs on the legislative, regulatory and administrative provisions as well as any other measures necessary to ensure the effective protection of the Union's financial interests (ref. Article 57(1) of the proposed Horizontal Regulation) risks to generate distorting conditions within the Union itself.</p> <p>Moreover, it is by no means clear to what extent and how the European Commission or the</p>	

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
	<p>other EU institutions will verify conditions adopted by Member States to complement the conditions laid down by Union rules (see Article 57(5) of the proposed Horizontal Regulation).</p> <p>Finally, it is not clear what are the consequences of any negative checks on the functioning of the Member State's control and sanction systems by:</p> <ul style="list-style-type: none"> - either the Commission - or other EU institutions. 	
Article 71		
Article 72	<p>From a general point of view, we are not against empowering EC to adopt delegate act but we need to know, in advance, these delegation technical contents (to be assessed during Council WPs). However, in order to ensure legal certainty, the basic act should also contain the minimum elements concerning definitions, basic characteristics and rules concerning the identification system for agricultural parcels, the system for the identification of beneficiaries and the system for the identification and registration of payment entitlements.</p>	
Article 73		

Chapter IV: Control system and penalties in relation to conditionality

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
Article 84	<p>A balanced evolution towards simplification of the whole CAP does request the conservation of the already existing elements of simplification, such as the exemption of small farmers from conditionality observance. Nevertheless, small farmers should ensure their actual participation into agricultural activity and agro-environmental preservation. The small reduction in terms of value of environmental benefits would be highly compensated by the wide decreasing of administrative burden thanks to simplification.</p> <p>Therefore, Italy does support proposal of most part of MSs to keep small farmers regime excluded by control and penalties system.</p> <p>Moreover, such simplification would be enhanced if MSs may have the opportunity to exempt, in duly justified cases, not only small farmers but also other groups of</p>	

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
	<p>beneficiaries, for example:</p> <ul style="list-style-type: none"> - ordinary beneficiaries whose UAA is less than a certain threshold established by the MSs according to objective and non-discriminatory criteria; - ordinary beneficiaries, who are supposed to comply with GAEC 9, and whose UAA is less a certain threshold of hectares established by the MSs according to objective and non-discriminatory criteria. <p>The leverage for environmental benefits would not be significantly affected: the small reduction in terms of value of environmental benefits would be highly compensated by the wide decreasing of administrative burden thanks to simplification in this cases, too.</p>	
<i>Paragraph 1</i>	<p>The first paragraph wording does not clarify a number of fundamental features.</p> <ul style="list-style-type: none"> • With reference to the first subparagraph of paragraph 1, will a more detailed description of the control system be included in a delegated act? • With reference to the fourth subparagraph of paragraph 1, should the annual review of the control system be transmitted to the EC? If the results are not achieved, what will it happen? Shall all these clarifications be covered in a delegated act? 	
<i>Paragraph 2</i>		
<i>Paragraph 3</i>	<p>Point (b):</p> <ul style="list-style-type: none"> • Are checks, referred to in this point, those which are carried out by specialised bodies, that are performed in certain areas, irrespective to conditionality, and which may also be used for conditionality (i.e.: checks carried out by veterinary services)? 	
Article 85		
<i>Paragraph 1</i>		
<i>Paragraph 2</i>		
<i>Paragraph 3</i>		
Article 86		
<i>Paragraph 1</i>		
<i>Paragraph 2</i>		

CAP Strategic Plans Regulation - comments and drafting suggestions

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
<i>Paragraph 3</i>		
<i>Paragraph 4</i>		
<i>Paragraph 5</i>		
Article 87	Italy does support proposal of almost all of MS to keep current percentage (25%).	

NETHERLANDS

PUBLIC

DATE	MEMBER STATE
26/09/2018	Netherlands

TITLE IV: CONTROL SYSTEMS AND PENALTIES**Chapter II: Integrated administration and control system**

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
Article 63	The Netherlands support a fundamental shift in responsibilities from the European Union level, under direct control of the European Commission, to Member State level, in line with the Commission's plea for enhanced subsidiarity. As a consequence, the IACS system should be left to the Member States, rather than continue to be regulated at EU level as is now being proposed. Member States should continue to monitor and control CAP compliance and expenditures, but the responsibility for doing so should be worded in generic terms, without spelling out how this should be done. Therefore, we propose to only maintain part of Article 63 (paragraphs 1, 2 and 3) and Article 65 (in amended form). The rest of Article 63 as well as Articles 64 to 73 should be deleted entirely.	
<i>Paragraph 1</i>		
<i>Paragraph 2</i>		
<i>Paragraph 3</i>		
<i>Paragraph 4</i>	See general comment above concerning Article 63. Paragraph 4 should be deleted.	4. For the purposes of this Chapter: (a) "geo-spatial application" means an electronic application form that includes an IT application based on a geographic information system that allows beneficiaries to spatially declare the

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
		<p>agricultural parcels of the holding and non-agricultural areas claimed for payment;</p> <p>(b) "area monitoring system" means a procedure of regular and systematic observation, tracking and assessment of agricultural activities and practices on agricultural areas by Copernicus Sentinels satellite data or other data with at least equivalent value;</p> <p>(c) "system for the identification and registration of animals" means the system for the identification and registration of bovine animals laid down by Regulation (EC) No 1760/2000 of the European Parliament and of the Council¹ or the system for the identification and registration of ovine and caprine animals laid down by Council Regulation (EC) No 21/2004²;</p> <p>(d) "agricultural parcel" means a unit of land representing an agricultural area as defined in Article 4 of Regulation (EU) .../... [CAP Strategic Plan Regulation];</p> <p>(e) "geographic information system" means a computer system capable of capturing, storing, analysing, and displaying geographically referenced information;</p>

¹ Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 (OJ L 204, 11.8.2000, p. 1).

² Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC (OJ L 5, 9.1.2004, p. 8).

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
		(f) "claimless system" means an application system for area or animal-based interventions in which necessary data required by the administration on at least individual areas or animals claimed for aid is available in official computerised databases managed by the Member State.
Article 64	Articles 64 and Articles 66 to 73 should be deleted entirely. See general comment under Article 63.	
Paragraph 1		<p style="text-align: center;"><i>Article 64</i> <i>Elements of the integrated system</i></p> <p>1. The integrated system shall comprise the following elements:</p> <p>(g) an identification system for agricultural parcels;</p> <p>(h) a geo-spatial and an animal-based application system;</p> <p>(i) an area monitoring system;</p> <p>(j) a system for the identification of beneficiaries of the interventions and measures referred to in Article 63(2);</p> <p>(k) a control and penalties system;</p> <p>(l) where applicable, a system for the identification and registration of payment entitlements;</p> <p>(m) where applicable, a system for the identification and registration of animals.</p>

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
Paragraph 2		2. The integrated system shall operate on the basis of electronic databases and geographic information systems and shall enable the exchange and integration of data between the electronic databases and the geographic information systems.
Paragraph 3		3. Without prejudice to the responsibilities of the Member States for the implementation and application of the integrated system, the Commission may seek the assistance of specialised bodies or persons in order to facilitate the establishment, monitoring and operation of the integrated system, in particular, with a view to providing the competent authorities of the Member States with technical advice.
Paragraph 4		4. Member States shall take all measures required for the proper establishment and operation of the integrated system and shall give one another the mutual assistance needed for the purposes of this Chapter.
Article 65		
Paragraph 1	In line with the deletion of the articles 64 an 66 – 73 the last subparagraph is not necessary anymore. Therefore it should be deleted too.	<p><i>Article 65</i></p> <p><i>Data keeping and sharing</i></p> <p>1. Member States shall record and keep any data and documentation on the annual outputs reported in the context of the annual performance clearance as referred</p>

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
		<p>to in Article 52, and the reported progress towards targets as set out in the CAP Strategic Plan and monitored in accordance with Article 115 of Regulation (EU) .../[CAP Strategic Plan Regulation].</p> <p>The data and documentation referred to in the first subparagraph relating to the current calendar year or marketing year and to the previous ten calendar years or marketing years shall be accessible for consultation through the digital databases of the competent authority of the Member State.</p> <p>By way of derogation from the second subparagraph, Member States which acceded to the Union in or after 2013 shall only be required to ensure that the data is available for consultation from the year of their accession.</p> <p>By way of derogation from the second subparagraph, Member States shall only be required to ensure that the data and documentation related to the area monitoring system referred to in point (e) of Article 64(1) is available for consultation as of the date of the implementation of the area monitoring system.</p>
<i>Paragraph 2</i>		
<i>Paragraph 3</i>	As regards data-sharing Member States need EU-support. Not only to establish common standards and procedures but also to develop common IT tools. The proposal of the	

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
	Commission in the HZR in Art. 22 to use CAP budget for area monitoring does not make sense (see our comments and suggestion on that article) since monitoring is conceptually totally different from the current on the spot checks. Therefore the budget reserved for the acquisition of Satellite data should (partly) be used for support in respect of efficient EU datasharing	
<i>Paragraph 4</i>	As regards data-sharing Member States need EU-support. Not only to establish common standards and procedures but also to develop common IT tools. The proposal of the Commission in the HZR in Art. 22 to use CAP budget for area monitoring does not make sense (see our comments and suggestion on that article) since monitoring is conceptually totally different from the current on the spot checks. Therefore the budget reserved for the acquisition of Satellite data should (partly) be used for support in respect of efficient EU datasharing	
<i>Paragraph 5</i>	As regards data-sharing Member States need EU-support. Not only to establish common standards and procedures but also to develop common IT tools. The proposal of the Commission in the HZR in Art. 22 to use CAP budget for area monitoring does not make sense (see our comments and suggestion on that article) since monitoring is conceptually totally different from the current on the spot checks. Therefore the budget reserved for the acquisition of Satellite data should (partly) be used for support in respect of efficient EU datasharing	
Article 66	Articles 66 to 73 should be deleted entirely. See general comment under Article 63.	
<i>Paragraph 1</i>		<p><i>Article 66</i> Identification system for agricultural parcels</p> <p>1. The identification system for agricultural parcels shall be a geographic information system established and regularly updated by the Member States on the basis of aerial or spatial ortho imagery, with a uniform standard that guarantees a level of accuracy that is at least equivalent to that of cartography at a scale of 1:5 000.</p>

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
Paragraph 2		<p>2. Member States shall ensure that the identification system for agricultural parcels:</p> <p>(a) uniquely identifies each agricultural parcel and units of land containing non-agricultural areas considered eligible by the Member States for receiving the aid for the interventions referred to in Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation];</p> <p>(b) contains up-to-date values on the areas considered eligible by the Member States for receiving the aid for the interventions referred to in Article 63(2);</p> <p>(c) enables the correct localisation of agricultural parcels and non-agricultural areas claimed for payment;</p> <p>(d) contains any information relevant for the reporting on the indicators referred to in Article 7 of Regulation (EU) .../... [CAP Strategic Plan Regulation];</p>
Paragraph 3		<p>3. Member States shall annually assess the quality of the identification system for agricultural parcels in accordance with the methodology set up at Union level.</p> <p>Where the assessment reveals deficiencies in the system, Member States shall adopt appropriate remedial actions or shall be requested to set up an action plan in</p>

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
		<p>accordance with Article 40.</p> <p>An assessment report and, where appropriate, the remedial actions and the timetable for their implementation shall be submitted to the Commission by 15 February following the calendar year concerned.</p>
Article 67	Articles 66 to 73 should be deleted entirely. See general comment under Article 63.	
<i>Paragraph 1</i>		<p><i>Article 67</i></p> <p>Geo-spatial and animal-based application system</p> <p>1. As regards the aid for the area-based interventions referred to in Article 63(2) and implemented under the national CAP Strategic Plans, Member States shall require the submission of an application by means of using the geo-spatial application provided by the competent authority to submit an application.</p>
<i>Paragraph 2</i>		<p>2. As regards the aid for the animal-based interventions referred to in Article 63(2) and implemented under the national CAP Strategic Plans, Member States shall require the submission of an application.</p>
<i>Paragraph 3</i>		<p>3. Member States shall pre-fill the applications referred to in paragraphs 1 and 2 with information from the systems referred to in point (g) of Article 64(1) and in Articles 66, 68, 69 and 71 or from any other relevant public database.</p>

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
Paragraph 4		4. Member States may decide that a claimless system shall cover one or more applications referred to in paragraphs 1 and 2.
Paragraph 5		5. Member States shall annually assess the quality of the geo-spatial application system in accordance with the methodology set up at Union level. Where the assessment reveals deficiencies in the system, Member States shall adopt appropriate remedial actions or shall be requested by the Commission to set up an action plan in accordance with Article 40. An assessment report and, where appropriate, the remedial actions and the timetable for their implementation shall be submitted to the Commission by 15 February following the calendar year concerned.
Article 68	Articles 66 to 73 should be deleted entirely. See general comment under Article 63.	
Paragraph 1		Article 68 Area monitoring system 1. Member States shall set up and operate an area monitoring system.
Paragraph 2		2. Member States shall annually assess the quality of the area monitoring system in accordance with the methodology set up at Union level. Where the assessment reveals deficiencies in the system, Member States shall adopt

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
		<p>appropriate remedial actions or shall be requested to set up an action plan in accordance with Article 40.</p> <p>An assessment report and, where appropriate, the remedial actions and the timetable for their implementation shall be submitted to the Commission by 15 February following the calendar year concerned.</p>
Article 69	Articles 66 to 73 should be deleted entirely. See general comment under Article 63.	<p>Article 69</p> <p><i>System for the identification of beneficiaries</i></p> <p>The system for recording the identity of each beneficiary of the interventions and measures as referred to in Article 63(2) shall guarantee that all applications submitted by the same beneficiary can be identified as such.</p>
Article 70	Articles 66 to 73 should be deleted entirely. See general comment under Article 63.	<p>Article 70</p> <p><i>Control and penalties system</i></p> <p>Member States shall set up a control and penalties system for the aid as referred to in Article 63.</p> <p>Paragraphs 1 to 5 of Article 57 shall apply mutatis mutandis.</p>
Article 71	Articles 66 to 73 should be deleted entirely. See general comment under Article 63.	<p>Article 71</p> <p><i>System for the identification and registration of payment entitlements</i></p> <p>The system for the identification and registration of payment entitlements shall allow for verification of the entitlements with the applications and the identification system</p>

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
		for agricultural parcels.
Article 72	<p>Articles 66 to 73 should be deleted entirely. See general comment under Article 63.</p> <p>The Netherlands are anyhow opposed to empowerments for delegated acts, the contents of which should be positioned in the basic act or, if tertiary legislation is inevitable, in an implementing act with examination procedure.</p> <p>In the case of the IACS, an empowerment for future delegated acts is anyhow not acceptable since it would open the door for future expansion of the monitoring and control rules, which go too far already now.</p>	<p>Article 72 <i>Delegated powers</i></p> <p>The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation concerning:</p> <p>(a) further rules on the quality assessment referred to in Articles 66, 67 and 68;</p> <p>(b) further definitions, basic features and rules on the identification system for agricultural parcels, the system for the identification of beneficiaries and the system for the identification and registration of payment entitlements referred to in Articles 66, 69 and 71.</p>
Article 73	<p>Articles 66 to 73 should be deleted entirely. See general comment under Article 63.</p> <p>The Netherlands does not see any need for implementing acts in relation to the IACS. See also our comments as regards Article 72.</p>	<p>Article 73 <i>Implementing powers</i></p> <p>The Commission may adopt implementing acts laying down rules on:</p> <p>(e) the form, content and arrangements for transmitting or making available to the Commission of:</p> <p>(i) the assessment reports on the quality of the identification system for agricultural parcels, of the geo-spatial application system and of the area monitoring system;</p> <p>(ii) the remedial actions to be implemented by the Member States as referred to in Articles 66, 67 and 68;</p> <p>(d) basic features and rules on the geo-spatial application system and the area</p>

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
		monitoring system referred to in Articles 67 and 68. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

Chapter IV: Control system and penalties in relation to conditionality

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
Article 84	<p>The Netherlands is of the opinion that Articles 84, 85 and 86 should be deleted, since Article 57(1, 2) contains the essential obligations to Member States. Articles 84 to 86 are redundant.</p> <p>During the Council Working Party, the Commission explained that it proposes an enhanced monitoring, controls and sanctions system in relation to the enhanced conditionality. The Netherlands are strictly opposed against this since it critically undermines the basic philosophy of enhanced subsidiarity.</p>	<p>Article 84 Control system for conditionality</p>
<i>Paragraph 1</i>		<p>1. Member States shall set up a control system to ensure that beneficiaries of the aid referred to in Article 11 of Regulation (EU) .../... [CAP Strategic Plan Regulation] and in Chapter IV of Regulation (EU) No 228/2013 and in Chapter IV of Regulation (EU) No 229/2013 respectively, comply with the obligations referred to in Section 2 of Chapter 1 of Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation].</p> <p>Member States may make use of their existing control systems and administration to ensure compliance with</p>

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
		<p>the rules on conditionality.</p> <p>Those systems shall be compatible with the control system referred to in the first subparagraph of this paragraph.</p> <p>Member States shall conduct a yearly review of the control system referred to in the first subparagraph in light of the results achieved.</p>
Paragraph 2		<p>2. For the purposes of this Chapter, the following definitions shall apply:</p> <p>(a) "requirement" means each individual statutory management requirement under Union law referred to in Article 11 of Regulation (EU) .../...[CAP Strategic Plan Regulation] within a given act, differing in substance from any other requirements of the same act;</p> <p>(b) "act" means each of the individual Directives and Regulations referred to in Article 11 of Regulation (EU) .../...[CAP Strategic Plan Regulation].</p>
Paragraph 3		<p>3. In their control system referred to in paragraph 1 Member States:</p> <p>(a) shall include on the spot checks to verify compliance by beneficiaries with the obligations laid down in Section 2 of Chapter 1 of Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation];</p>

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
		<p>(b) may decide, depending on the requirements, standards, acts or areas of conditionality in question, to use the checks carried out under the control systems applicable to the respective requirement, standard, act or area of conditionality, provided the effectiveness of these checks is, at least, equal to the on-the-spot checks referred to in point (a);</p> <p>(c) may, where appropriate, make use of remote sensing or the area monitoring system to carry out the on-the-spot checks referred to in point (a);</p> <p>(d) establish the control sample for the checks referred to in point (a) to be carried out each year on the basis of a risk analysis and shall include a random component and shall provide the control sample to cover at least 1% of beneficiaries receiving the aid provided for in Section 2 of Chapter 1 of Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation].</p>
Article 85	<p>The Netherlands is of the opinion that Articles 84, 85 and 86 should be deleted, since Article 57(1, 2) contains the essential obligations to Member States. Articles 84 to 86 are redundant.</p> <p>During the Council Working Party, the Commission explained that it proposes an enhanced monitoring, controls and sanctions system in relation to the enhanced conditionality. The Netherlands is opposed against this.</p>	<p>Article 85 System of administrative penalties for conditionality</p> <p>1. Member States shall set up a system providing for the application of administrative penalties to beneficiaries referred to in Article 11 of Regulation (EU) .../... [CAP Strategic Plan Regulation] who do not comply, at any</p>

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
		<p>time in the calendar year concerned, with the rules on conditionality as laid down in Section 2 of Chapter 1 of Title III of that Regulation ("penalty system").</p> <p>Under that system, the administrative penalties referred to in the first subparagraph shall only apply where the non-compliance is the result of an act or omission directly attributable to the beneficiary concerned; and where one or both of the following conditions are met:</p> <p>(a) the non-compliance is related to the agricultural activity of the beneficiary;</p> <p>(b) the area of the holding of the beneficiary is concerned.</p> <p>With regard to forest areas, however, the administrative penalty referred to in the first subparagraph shall not apply where no support is claimed for the area concerned in accordance with Articles 65 and 66 of Regulation (EU) .../... [CAP Strategic Plan Regulation].</p> <p>2. In their penalty systems referred to in paragraph 1, Member States:</p> <p>(c) shall include rules on the application of administrative penalties in cases where the land is transferred during the calendar year concerned or the years concerned. These rules shall be based on a fair and equitable attribution of the liability for non-compliances among transferors and transferees;</p> <p>For the purpose of this point, 'transfer' means</p>

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
		<p>any type of transaction whereby the agricultural land ceases to be at the disposal of the transferor.</p> <p>(d) may decide, notwithstanding paragraph 1, not to apply a penalty per beneficiary and per calendar year when the amount of the penalty is EUR 100 or less. The finding and the obligation to take remedial action shall be notified to the beneficiary;</p> <p>(e) shall provide that no administrative penalty be imposed where the non-compliance is due to force majeure.</p> <p>3. The application of an administrative penalty shall not affect the legality and regularity of the expenditure to which it applies.</p>
Paragraph 1		
Paragraph 2		
Paragraph 3		
Article 86	<p>The Netherlands is of the opinion that Articles 84, 85 and 86 should be deleted, since Article 57(1, 2) contains the essential obligations to Member States. Articles 84 to 86 are redundant.</p> <p>During the Council Working Party, the Commission explained that it proposes an enhanced monitoring, controls and sanctions system in relation to the enhanced conditionality. The Netherlands is opposed against this.</p>	<p>Article 86</p> <p>Calculation of the penalty</p> <p>1. The administrative penalties provided for in Section 2 of Chapter 1 of Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation] shall be applied by means of reduction from or exclusion of the total amount of the payments listed in that Section of that Regulation granted or to be granted to the beneficiary concerned in respect of aid applications he has submitted or will submit in the course of the calendar year of the finding.</p>

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		<p>For the calculation of those reductions and exclusions, account shall be taken of the severity, extent, permanence, recurrence or intentionality of the non-compliance determined. The penalties imposed shall be dissuasive and proportionate, and compliant with the criteria set out in paragraphs 2 and 3 of this Article.</p> <p>2. In the case of non-compliance due to negligence, the percentage of reduction shall be as a general rule 3% of the total amount of the payments referred to in paragraph 1 of this Article.</p> <p>Member States may set up an early warning system that applies to individual cases of non-compliance occurring for the first time and which, given their minor severity, extent and permanence, shall not lead to a reduction or exclusion. Where a subsequent check within three consecutive calendar years establishes that the non-compliance has not been remedied, the reduction pursuant to the first subparagraph shall be applied retroactively.</p> <p>However, cases of non-compliance which constitute a direct risk to public or animal health shall always lead to a reduction or exclusion.</p> <p>Member States may provide mandatory training under the farm advisory system provided for in Section 3 of Chapter 1 of Title III of Regulation (EU) .../...[CAP</p>

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
		<p>Strategic Plan Regulation] to the beneficiaries who have received an early warning.</p> <p>3. In case of reoccurrence, the percentage reduction shall be higher than the one to be applied in case of non-compliance due to negligence and sanctioned for the first time.</p> <p>4. In case of intentional non-compliance, the percentage shall be higher than the one applied in case of reoccurrence pursuant to paragraph 3 and may go as far as total exclusion from payments and may apply for one or more calendar years.</p> <p>5. In order to ensure a level playing field between Member States and the effectiveness and dissuasive effect of the penalty system, the Commission shall be empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with further rules on the application and calculation of penalties.</p>
Paragraph 1		
Paragraph 2		
Paragraph 3		
Paragraph 4		
Paragraph 5		

COMMISSION PROPOSAL	COMMENTS	DRAFTING SUGGESTIONS
Article 87	<p>The Netherlands proposes that Member States may retain 100% of the amounts of the reductions and exclusions, on condition that the relevant budget is invested in eco-schemes (Art. 28) or agro-environment-climate measures (Art. 65).</p> <p>Conditionality is applied to direct payments for ensuring that rules and practices concerning the climate and the environment are being respected. Any budget recovered for reason of non-compliances should be re-invested into measures for climate and environment. A system in which budget recovered by Member States is retained up to 20% only goes at the expense of the climate and environment objectives of the CAP.</p>	<p><i>Article 87</i> <i>Amounts resulting from the administrative penalties on conditionality</i> Member States may retain 100% % of the amounts resulting from the application of the reductions and exclusions <u>resulting from the administrative penalties on conditionality referred to in Article 86 on the condition that those amounts are re-invested through eco-schemes as referred to in Article 28 or climate and environment measures pursuant to Article 65.</u></p>