Council of the European Union
General Secretariat

Interinstitutional files:
2018/0216(COD)

Brussels, 21 March 2019

WK 10820/2018 ADD 5

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WORKING PAPER

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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Horizontal Agricultural Questions (CAP Reform)
N° Cion doc.:	9645/18 + COR 1 + ADD 1
Subject:	Proposal for a Regulation on Financing, management and monitoring of the CAP - Commission's replies to delegations' comments (Title IV, Chapters II and IV)

Delegations will find in the Annex the Commission's replies to written comments submitted by delegations on the following Articles of the abovementioned proposal:

- Title IV, Chapter II (Articles 63 to 73);
- Title IV, Chapter IV (Articles 84 to 87).

PROPOSAL FOR A REGULATION ON FINANCING, MANAGEMENT AND MONITORING OF THE CAP:

REPLIES TO COMMENTS FROM DELEGATIONS.

DISCLAIMER:

This document is only intended to facilitate the work of the Working Party on Horizontal Questions in the context of the ordinary legislative procedure.

This document does not anticipate any content of any legislative act and has no interpretative value as internal reflections may still be on-going.

This document includes the replies to written comments on the abovementioned Commission proposal with regard to with regard to Title IV, Chapters II (art. 63-73) and IV (art. 84-87) following the request by the Austrian Presidency on 19 September 2018 for possible written questions from delegations (WK 10820/2018 INIT).

Title IV, Chapters II (art. 63-73) and IV (art. 84-87)

Article 63 Scope and definitions	
Paragraph 4(d) The definition of an agricultural parcel (paragraph d) is too vague. The Commission is asked to propose an alternative wording or ask the member states include it in their strategic plan	The definition of agricultural parcel has been adapted to reflect the moving away from detailed rules in IACS. Like in the current system, the agricultural parcel has to be a unit of agricultural area that is continuous, homogeneous and recognisable by the farmer as a basic unit of his/ her farming activity. The agricultural parcel is also the unit of declaration in the geo-spatial application. MS may further define the concept of 'agricultural parcel' to address the specificities of the different area-based interventions, e.g. agri-environmental interventions. COM will ask MS to include the definition of 'agricultural parcel' in the CAP strategic plan.
Paragraph 4(d) The definition of the agricultural parcel should be clearly set out in one of the two proposed regulations.	The definition of agricultural parcel has been adapted to reflect the moving away from detailed rules in IACS. Like in the current system, the agricultural parcel has to be a unit of agricultural area that is continuous, homogeneous and recognisable by the farmer as a basic unit of his/ her farming activity. The agricultural parcel is also the unit of declaration in the geo-spatial application. MS may further define the concept of 'agricultural parcel' to address the specificities of the different area-based interventions, e.g. agri-environmental interventions. COM will ask MS to include the definition of 'agricultural parcel' in the CAP strategic plan.
Paragraph 4(c) system for the identification and registration of animals" concerns bovines and ovine and caprine animals – why are porcine animals still excluded? Other databases for animals established by Member States should also be used even if they are not based on individual animals to avoid communication of the same information twice.	The applicability of the system for identification and registration of bovine, ovine and caprine is obligatory, compared to the system of porcines, for which Member States may choose to set up such a database. Moreover, pigs cannot be granted coupled income support and they can only be supported through RD interventions. However, COM would not oppose the addition of the pigs register should MS consider it necessary.
Paragraph 4(b) „area monitoring system" Clarification is required on which type of agricultural activities and practices are included under this monitoring system. We have doubts as to whether such a system can monitor the vast majority of environmental management commitments, including many of the conditionality obligations, which can only be monitored through on-the-spot physical checks. On the other hand the JRC document " *Discussion document on the introduction of*	COM is strongly opposed to making the area monitoring system optional. Freely available Earth Observation data captured by the Copernicus Sentinel satellites and other innovative technologies provide significant information on agricultural activities across the EU. Using these technologies will modernise and improve the administration, monitoring and overall operation of the CAP and have multiple benefits for farmers and Member States' administrations. Area monitoring should be compulsory from the beginning of the programming period

monitoring to substitute OTSC" (page 31), states that it´s not possible to monitor agricultural parcels with areas below 0.5 ha. In mainland Portugal, more than 60% of the agricultural parcels have areas below 0.5 ha (this proportion is even higher in the Outermost Regions). Clarification is required on how the Commission sees the implementation of such system in this type of small plots. In this context, if the alternative solution to the use of satellite imagery in these situations is 100% on-the-spot physical checks, the implementation of the Area monitoring system should be reassessed, given the high control costs associated. It should be recalled that control costs currently derive from a sample consisting of only 5% of the beneficiaries. Therefore, Portugal considers that the implementation of the Area monitoring system should be optional for Member States, or else a mixed system should be implemented where situations that cannot be monitored using satellite imagery may be so through sampling controlled on the spot as is currently the case.	to ensure that: - all MS advance equally in their use of technologies (modernisation is a key objective of the future CAP); - data necessary for performance reporting is created efficiently and in an automatised way; - assurance on CAP expenditure is provided through reliable data on reported output and result indicators; - all MS create a system that helps beneficiaries to comply with their obligations and receive CAP support with minimum disruption to their farming activities instead of focusing on achieving performance by strict controls and penalties. Please see as well COM's non-paper on the purpose and functions of monitoring in post-2020. Furthermore, COM considers the issue of 'monitorability' of small or irregular parcels a technical issue which will be overcome in the near future, certainly before the start of the next programming period. COM is aware that not all obligations stemming from conditionality or eligibility conditions defined by the MS in their strategic plans will be monitorable, as various environmental management commitments cannot be verified with this system. The current legal provisions acknowledge that already (cf. Article 40a(1)(a) of R. 809/2014). Finally, COM considers that most aspects relevant to GAECs can be observed using monitoring techniques: stubble burning, crop rotation, ploughing up of protected grasslands, etc. Others can be followed by using a combination of IACS data (LPIS, monitoring, farmers declarations): buffer strips along watercourses, non-productive areas, retention of landscape features etc. COM will strongly support MS in developing the area monitoring system through technical and legal work. Please note that further rules on the area monitoring system may be developed in implementing acts.
Paragraph 4(b) „area monitoring system" could the Commission specify her expectations concerning this area monitoring system and the regular en systematic observation? language – French version: In article 63(4)(b) and article 64(1)(c) the same wording should be used (first a "système de contrôle des surfaces" is mentioned, further in the text "un système de suivi des surfaces" is mentioned).	COM takes note of the drafting suggestions in the French version. Please see as well COM's non-paper on the purpose and functions of the area monitoring system in post-2020. At this stage it is not however possible to give detailed specifications of the requirements. If necessary, these will be further defined in an implementing act (cf. Article 73(b) of the proposed HZR).
Paragraph 4(b) „area monitoring system" SI request additional clarification on definition " other at least equivalent value". Is the	The definition reflects the current wording of Article 40a of Regulation (EU) No 809/2014 where "data with at least equivalent value" is also mentioned. The concept

use of Copernicus Sentinel data mandatory if "other at least equivalent value" is used? If so, what “other at least equivalent value” should be used?	is further clarified in the Q&A document on checks by monitoring (Ares(2018)4341814 published on Circabc). A similar definition would apply in the future.
Paragraph 4(b) „area monitoring system“ Le monitoring des surfaces devient une composante obligatoire du SIGC. La France propose d'ajouter une disposition prévoyant une période transitoire tant que le monitoring n’est pas considéré opérationnel. La France estime que trop d’inconnues persistent aujourd’hui sur la faisabilité technique de son déploiement. En particulier, les outils doivent être adaptés à la diversité des agricultures et permettre le suivi des petites parcelles, des prairies, des sols en pente...	Freely available Earth Observation data captured by the Copernicus Sentinel satellites and other innovative technologies provide significant information on agricultural activities across the EU. Using these technologies will modernise and improve the administration, monitoring and overall operation of the CAP and have multiple benefits for farmers and Member States’ administrations. COM will strongly support MS in developing the area monitoring system through technical and legal work. In addition, please note that further rules on the area monitoring system may be developed in implementing acts. Furthermore, COM considers the issue of ‘monitorability’ of small or irregular parcels a technical issue which will be overcome in the near future, certainly before the start of the next programming period. Area monitoring should be compulsory from the beginning of the programming period to ensure that: - all MS advance equally in their use of technologies (modernisation is a key objective of the future CAP); - data necessary for performance reporting is created efficiently and in an automatised way; - assurance on CAP expenditure is provided through reliable data on reported output and result indicators; - all MS create a system that helps beneficiaries to comply with their obligations and receive CAP support with minimum disruption to their farming activities instead of focusing on achieving performance by strict controls and penalties. All these ensure a level playing field for farmers in the EU. In sum, COM is strongly opposed to making the area monitoring system optional. Allowing for a transition period would create differences in the level of digitisation of administration/ farmers between MS, which would also impact negatively on the efficiency of administering the CAP and thus indirectly creating issues with the competitiveness of the sector. COM is thus not in favour of a transition period.
Paragraph 4(b) In our opinion, it is not realistic and feasible to apply an area monitoring system on the basis of Copernicus Sentinels satellite data as of 2021. Even though Hungary has already launched a relevant pilot project, the tests and examinations have not yet been finished. It would require a considerable IT development in a short period of time. We propose therefore that the future system should be built on the basics of the present	Freely available Earth Observation data captured by the Copernicus Sentinel satellites and other innovative technologies provide significant information on certain agricultural activities across the EU. Using these technologies will modernise and improve the administration, monitoring and overall operation of the CAP and have multiple benefits for farmers and Member States’ administrations. COM will strongly support MS in developing the area monitoring system through

IACS. We consider the 2021 introduction of full monitoring too early; consequently, a solution has to be worked out, in the form of a transitional period or derogation.	technical and legal work. In addition, please note that further rules on the area monitoring system may be developed in implementing acts. Area monitoring should be compulsory from the beginning of the programming period to ensure that: - all MS advance equally in their use of technologies (modernisation is a key objective of the future CAP); - data necessary for performance reporting is created efficiently and in an automatised way; - assurance on CAP expenditure is provided through reliable data on reported output and result indicators; - all MS create a system that helps beneficiaries to comply with their obligations and receive CAP support with minimum disruption to their farming activities instead of focusing on achieving performance by strict controls and penalties. All these ensure a level playing field for farmers in the EU. In sum, COM is strongly opposed to making the area monitoring system optional. Allowing for a transition period would create differences in the level of digitisation of administration/ farmers between MS, which would also impact negatively on the efficiency of administering the CAP and thus indirectly creating issues with the competitiveness of the sector. COM is thus not in favour of a transition period.
Paragraph 4(a) It is stated here that an electronic application form includes an IT application based on a geographic information system. What is the relation between this system further defined in (e) and the geographic information system referred to in Article 66 which defines the identification system for agricultural parcels (LPIS)?	By referring to “a geographic information system” in the definition of the geo-spatial application (GSA) and the article on the LPIS, COM aims at ensuring that both tools are capable of capturing, storing, analysing, and displaying geographically referenced information (cf. Article 63(4)(e) of the proposal for the HZR).
Paragraph 4(a) In point (a) "application for geo-spatial information" means an electronic application form including a computerized application based on a geographic information system which enables the beneficiaries to declare by landing the farm parcels of the holding and the non-agricultural areas for which it requests payment". According to the text, do farmers have to declare the agricultural parcels and non-agricultural areas for which they require payments or which they use? It's different from the rules in force.	Article 72(1)(a) of Regulation (EU) No 1306/2013 requires farmers to indicate all the agricultural parcels on the holding (regardless of whether they claim them for payment or not), as well as the non-agricultural area for which certain types of Pillar 2 support are claimed (for payment). In the future, farmers will still have to declare non-agricultural areas for which they require payments as well as the agricultural parcels of the holding.
Paragraph 3 There seems to a discrepancy between this paragraph where it is stated that integrated system to the extent necessary shall be used for the control of the conditionality and	Article 63(3) of the HZR proposal states that IACS shall be used for the control of conditionality to the extent necessary. This is to be understood as “to the extent considered useful” (efficiency considerations). Where MS decide to use IACS for

article 84, 3 (b), where it is stated that Member States may make use of area monitoring. Can the Commission clarify this?	controls of conditionality, MS may also decide to use the area monitoring system as a tool for checking conditionality requirements, e.g. the ban on stubble burning. The intention of mentioning the area monitoring system in Article 84(3)(c) is to give MS flexibility in the choice of tools for carrying out conditionality checks.
Paragraph 3 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?	On conditionality, the scope of IACS has not changed, i.e. status quo is maintained and the approach is the same as it was for the cross-compliance. MS can use IACS for the control of conditionality to the extent they consider useful (efficiency considerations). For instance, a MS may decide to control crop rotation (GAEC 8) in IACS but not animal identification (e.g. SMR 8, relevant for the identification and registration of bovine animals. Regarding measures in the wine sector, several MS use already IACS to manage such measures. COM's intention was to give legal certainty by referring to such measures in IACS provisions. However, it is not mandatory to manage these measures in IACS. Measure-specific rules such as rules on the vineyards register may be followed. Concerning compatibility with the integrated system, where IACS is not used to manage measures in the wine sector, the measure-specific administration and control procedures have to be compatible with the LPIS and the checks carried out for IACS interventions (cf. Article 61 of the proposed HZR). For example, to register areas eligible for payment, MS may either use a vineyard register (compatible with the LPIS) or the LPIS itself. In sum, the status quo is maintained.
Paragraph 3 it must be clarified and specified by the Commission, which means "To the extent necessary", as well as the relation of this section with article 61 and article 66, paragraph 2.a in regards of vineyard parcels.	On conditionality, the scope of IACS has not changed, i.e. status quo is maintained and the approach is the same as it was for the cross-compliance. MS can use IACS for the control of conditionality to the extent they consider useful (efficiency considerations). Regarding measures in the wine sector, several MS use already IACS to manage such measures. COM's intention was to give legal certainty by referring to such measures in IACS provisions. However, it is not mandatory to manage these measures in IACS. Measure-specific rules such as rules on the vineyards register may be followed. Concerning compatibility with the integrated system, where IACS is not used to manage measures in the wine sector, the measure-specific administration and control procedures have to be compatible with the LPIS and the checks carried out for IACS interventions (cf. Article 61 of the proposed HZR). In sum, the status quo is maintained.
Paragraph 3 We find necessary to define more clearly what is meant by "to the extent necessary	On conditionality, the scope of IACS has not changed, i.e. status quo is maintained and the approach is the same as it was for the cross-compliance. MS can use IACS for the control of conditionality to the extent they consider useful (efficiency considerations).

	Regarding measures in the wine sector, several MS use already IACS to manage such measures. COM's intention was to give legal certainty by referring to such measures in IACS provisions. However, it is not mandatory to manage these measures in IACS. Measure-specific rules such as rules on the vineyards register may be followed. Concerning compatibility with the integrated system, where IACS is not used to manage measures in the wine sector, the measure-specific administration and control procedures have to be compatible with the LPIS and the checks carried out for IACS interventions (cf. Article 61 of the proposed HZR). In sum, the status quo is maintained.
Paragraph 3 There is a need for further explanation regarding the inclusion of the wine sector at the integrated administration and control system (IACS) and a concern about additional administrative cost (effort), is expressed.	Regarding measures in the wine sector, several MS use already IACS to manage such measures. COM's intention was to give legal certainty by referring to such measures in IACS provisions. However, it is not mandatory to manage these measures in IACS. Please note that in accordance with Article 61 of the proposed HZR, where IACS is not used to manage measures in the wine sector, the administration and control procedures have to be compatible with the LPIS and the checks carried out for IACS measures. This provision exists in Regulation (EU) No 1306/2013 (Art.61). In sum, the status quo is maintained.
Paragraph 3 In accordance with Article 63 1 (3) The Integrated Administration and Control System will also be used for the management and control of conditionality. Regulation (EU) No 1306/2013 states that the integrated control system applies to the control of cross-compliance. The wording "administration and control" should therefore be re-examined.	COM takes note of the comment concerning the wording of the Article. Please note that the scope of IACS has not changed, i.e. status quo is maintained and the approach is the same as it was for the cross-compliance. MS can use IACS for the control of conditionality to the extent they consider useful (efficiency considerations), as long as checks are effective.
Paragraph 3 What is understood by "extent necessary" when it comes to conditionality? Using IACS for the management and control of conditionality is problematic, taking into account also the fact that some of the conditions are not controllable administratively.	The wording "to the extent necessary" exists in the current HZR. Hence, the scope of IACS has not changed, i.e. status quo is maintained and the approach is the same as it was for the cross-compliance. MS can use IACS for the control of conditionality to the extent they consider useful (efficiency considerations), as long as checks are effective.
Paragraph 3 La Commission ayant indiqué que l'extension du champ d'application du SIGC aux interventions du secteur viticole était motivée par des questions de suivi de ces interventions, la France souhaiterait avoir des précisions à ce sujet. La France souhaite se voir préciser la signification des termes « dans la mesure nécessaire ». La France considère en effet que l'intégration des interventions du secteur viticole dans le SIGC doit rester optionnelle. La Commission peut-elle confirmer que si l'État membre dispose d'un autre outil de gestion et contrôle pour le secteur viticole, compatible avec le SIGC, l'intégration des	Managing measures in the wine sector in IACS is not mandatory. Measure-specific rules such as rules on the vineyards register may be followed. Concerning compatibility with the integrated system, where IACS is not used, the measure-specific administration and control procedures have to be compatible with the LPIS and the checks carried out for IACS interventions (cf. Article 61 of the proposed HZR). In sum, the status quo is maintained.

interventions de ce secteur dans le SIGC ne sera pas nécessaire ?	
Paragraph 2 PT considers it necessary to continue to provide for the current exceptions to the implementation of the IACS, as laid down in Article 67(2) of Regulation 1306/2013, in particular with regard to interventions related to improving genetic resources, setting up agroforestry systems and planting or reforesting wooded areas.	COM does not consider necessary to foresee exceptions regarding the scope of IACS, and it is sufficiently clear that, IACS has to be used for the area- and animal-based interventions to be planned under the types of interventions listed in Chapters II and IV of Title III of the proposed CAP Plan Regulation. The interventions mentioned by the MS do not qualify as an area or animal intervention.
Paragraph 2 It should be verified whether it is indeed necessary to apply the Integrated System to all area-related measures; This applies in particular to forest-related measures. At the very least, there is a need for more substantial simplifications with regard to the requirement for the accuracy of area delimitation, as it is not possible to meet the specifications for agricultural land when dealing with forested areas.	COM proposes that all area-related interventions planned under the types of interventions listed in Chapters II and IV of Title III of the proposed CAP Plan regulation have to be administered in IACS. There will be no specifications concerning the agricultural land, and this is left to the discretion of the Member States to define in the CAP Plans.
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). In addition, more detailed items should be included in the basic act to ensure legal certainty and equal treatment among Member States. 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 Technical Assistance funds?	As pointed out at both Working Parties on HAQ at which IACS was discussed, COM proposes to step back from providing detailed rules on IACS and focus only on key elements/ functionalities. COM is particularly not in favour of prescribing in details technical aspects of IACS in the basic act. It proposes to develop them in delegated and implementing regulations which ensure legal certainty and equal treatment among MS as they are directly applicable in all EU MS. Furthermore, in view of the fast technological developments, detailed rules in the basic act risk becoming an obstacle for introducing innovative solutions in IACS; COM's capacity to react to unforeseen implementation issues will also be affected. Concerning the content of the delegated acts, as proposed in Article 72 of the HZR, the following would be covered by delegated acts: - Rules on the quality assessment for LPIS, GSA and the area monitoring. This would imply the following: (1) the quality elements to be checked and (2) the deadline for submitting the reports; - if necessary, further definitions and rules on the LPIS, the system for identification of beneficiaries and the system for identificiation and registration of payment entitlements. The need to develop further rules will be dictated by the final policy package or MS requests. Technical assistance at the initiative of the Commission will in principle not be available for setting up IACS elements. COM will strongly support MS through technical and legal work (please see also the non-paper on CAP expenditure under direct management).
the description of the integrated system, especially the description of the system of controls and sanctions, must be subject to the approval of the strategic plan by the	COM is strongly against approving the controls and penalties systems designed by MS. COM wants to move away from a system where the delivery of the policy strongly

Commission (see comment of Spain on article 106 of the regulation of the CAP strategic plan)	relies on controls and penalties; instead, COM wants to focus on performance and creating an IACS system that helps beneficiaries comply with their obligations and receive CAP support with minimum disruption to their farming activities. Approving the controls and penalties system set up by MS would risk undermining the simplification potential given by the new delivery model in respect of IACS. Namely, in a scenario where COM would be asked to approve the system of controls and penalties, the following changes to the current proposal would be necessary: - Common rules on penalties and controls at EU level would have to be developed; even if these would be significantly reduced compared to the current period, rigidity in the system would be back. MS would not have much leeway in adapting the penalties and controls to their local/ regional/ national specificities and the specificities of their interventions; - Detailed descriptions on the controls and penalties system would be required in the CAP SP. COM could not approve this section without understanding the details of the system and the context in which it operates; this would cause significant additional workload when preparing CAP Strategic Plans; - After approval of the Strategic Plan, every change to the controls and penalties system of a MS would also have to be approved by COM. MS would be required to justify their request to adapt the system of controls and penalties in light of achieving set performance targets. - Conformity clearance procedures would need to check compliance with common EU rules on controls and penalties and foresee corrections where these are not respected, even in situations where performance is actually achieved. The level playing field will be ensured by common principles that should nevertheless be respected, as given in the Financial Regulation applicable to all EU funds and in Articles 57 and 58 of the proposal for the future CAP horizontal regulation.
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.	The proposal to delete most articles on IACS cannot be accepted. Defining common elements of IACS, which is part of the governance systems, and providing COM with the empowerment to further define features of key elements ensures a level playing field across EU MS in the administration and control of CAP expenditure. IACS is a known and well-functioning system for administering CAP payments (area- and animal based) and has been successful in keeping the error rates comparatively low; hence, COM wishes to continue IACS. The purpose of the system is also to ensure the reliability and verifiability of data provided in the annual performance reporting. IACS, is therefore part of the required governance system that need to be in place throughout the period of implementation of the CAP strategic plans in the post-2020

	period. That said, the proposal reflects the change of approach from a compliance-based to a performance-based delivery model and opens significant room for simplification by extending subsidiarity to MS in key areas such as controls and penalties, the geo-spatial application etc.
In general, regarding the definitions in this article the Czech Republic would appreciate a more detailed specification and criteria from the Commission	As pointed out at both Working Parties on HAQ at which IACS was discussed, COM proposes to step back from providing detailed rules on IACS and focus only on key elements/ functionalities. Furthermore, the definitions in this Article have been developed based on the IACS tools existing in the current period. Where necessary, these have been adapted to reflect the moving away from prescribing detailed rules (e.g. agricultural parcel). COM therefore considers the current definitions in the basic act sufficiently detailed. Please note that further rules on the area monitoring system and the geo-spatial application may be developed in implementing acts. Concerning the claimless application system, please see the non-paper prepared by COM.
Article 64 Elements of the integrated system	
Paragraph 4 There should be a limitation of the extent of ”all measures required”. We would like to ask the COM to clarify this.	“all measures required” refers to necessary actions that MS need to take in order to establish and operate a good integrated system (IACS) according to their needs and requirements set by EU legislation.
Paragraph 4 It is unclear why the Commission included the obligation of MS to assist each other in the legal text. Every MS is responsible for their national implementation, whereas the Commission should be responsible for advisory, help and assistance.	There has been no change in the approach; the wording exists already in the current legislation (Art. 68(4), R. 1306/2013).
Paragraph 4 How will mutual assistance be developed between MS for IACS?	There has been no change in the approach; the wording exists already in the current legislation (Art. 68(4), R. 1306/2013).
Paragraph 3 The implementation of the new IACS elements, taking into account all the modernisation and digitization needed, specially regarding the area monitoring, will demand a lot of effort and resources from the MS. Thus this tecnichal assistance provided by the Commission should be mandatory	Please note that the provision concerns ‘technical advice’ and it should not be confused with ‘technical assistance’. Technical assistance at the initiative of the Commission will in principle not be available for setting up IACS elements. However, it is necessary to distinguish actions implemented under direct management on the one hand and support for technical assistance at the initiative of the Member States on the other. The legal basis for technical assisstance at the initiative of the MS is set by Article 112 of the proposal for the CAP Strategic Plan regulation (please see also COM’s non-paper on CAP expenditure under direct management).

	COM intends to continue supporting MS in implementing IACS through technical advice.
Paragraph 3 It would seem to be appropriate to mention, in addition to technical assistance, the financial support the Commission may provide for such purposes.	There has been no change in the approach; the wording exists already in the current legislation (Art.68 (3), R.1306/2013). Please note that the provision concerns 'technical advice' and it should not be confused with 'technical assistance'.
Paragraph 3 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. 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?	There has been no change in the approach; the wording exists already in the current legislation (Art.68 (3), R.1306/2013). "[…] should they request it" was deleted to give COM the opportunity to initiate actions even without the request of MS. Please note that this paragraph does not oblige COM to provide technical advice to MS, it gives COM the possibility to ask specialised bodies or persons to provide the competent authorities with technical advice. COM intends however to continue supporting MS in implementing IACS through technical and legal work.
Paragraph 3 It should be clearly stated how the Commission intends to seek assistance of specialised bodies or persons in order to facilitate the establishment, monitoring and operation of the integrated system.	There has been no change in the approach; the wording exists already in the current legislation.
Paragraph 2 What is understood by "exchange and integration of data"? Which electronic databases are meant here?	All elements of IACS (e.g. LPIS, GSA, area monitoring system etc.) function on the basis of electronic databases; the data stored in these databases shall be available for use and further treatment between IACS elements. In other words, databases have to be interoperable and able to communicate with each other (e.g. the LPIS with the GSA to perform cross-checks).
Paragraph 2 How will the integration of the surface monitoring system with the control system and penalties be established by each MS, given that monitoring is also a control system?	The area monitoring system in the proposed HZR should be distinguished from the "checks by monitoring" in the current legislation (Ar. 40a, R.809/2014). The area monitoring system in the future will be a system of monitoring agricultural activities, which may be used for controls on eligibility conditions or not. Taken into account the full subsidiarity given to MS for designing their control and penalties system (Art. 70 of the proposed HZR), it is up to the MS to use area monitoring system for checks. Please see as well COM's non-paper on the purpose and functions of monitoring in post-2020.
Paragraph 2 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?	Technical assistance at the initiative of the Commission will in principle not be available for setting up IACS elements. However, it will be possible to finance actions related to the administration and implementation of the entire CAP Strategic Plan, including IACS, under technical assistance at the initiative of MS (please see also COM's non-paper on CAP expenditure under direct management). COM will also strongly support MS through technical and legal work.

Currently we do not have an area monitoring system in Sweden. We need a transition period to manage to get the system up and running. Sweden has quite a lot of small parcels and grazing parcels that make it difficult to use monitoring. Today we have many agri-environmental measures with commitments that can not, according to the current rules, be monitored by Sentinel. But we also forsee that this will be the case for future measures in the new CAP that we plan, in order to fulfil the objectives. Also several basic rules suggested in the conditionality will be hard to control through monitoring. We are optimistic about the new system but believe that MS need to decide when it is possible to use it. The EU legislation should be amended in order to allow flexibility for Member States and to create possibilities for a gradual introduction of new monitoring techniques. That is allowing for the use of satellite based monitoring on Pillar I while for example maintaining OTSC on Pillar II, when needed.	The area monitoring system in the proposed HZR should be distinguished from the "checks by monitoring" in the current legislation (Ar. 40a, R.809/2014). The area monitoring system in the future will be a system of monitoring agricultural activities, which may be used for controls on eligibility conditions or not. Taken into account the full subsidiarity given to MS for designing their control and penalties system (Art. 70 of the proposed HZR), it is up to the MS to use area monitoring system for checks. Please see as well COM's non-paper on the purpose and functions of monitoring in post-2020. Furthermore, COM considers the issue of 'monitorability' of small or irregular parcels a technical issue which will be overcome in the near future, certainly before the start of the next programming period. COM is aware that not all obligations stemming from conditionality or eligibility conditions defined by the MS in their strategic plans will be monitorable. The current legal provisions acknowledge that already (cf. Article 40a(1)(a) of R. 809/2014). An approach for monitoring areas of pastures maintained by grazing, based on combining monitoring and LPIS data has also been developed. Finally, COM considers that most aspects relevant to GAECs can be observed using monitoring techniques: stubble burning, crop rotation, ploughing up of protected grasslands, etc. Others can be followed by using a combination of IACS tools (LPIS, monitoring, farmers declarations): buffer strips along watercourses, non-productive areas, retention of landscape features etc. Freely available Earth Observation data captured by the Copernicus Sentinel satellites and other innovative technologies provide significant information on agricultural activities across the EU. Using these technologies will modernise and improve the administration, monitoring and overall operation of the CAP and have multiple benefits for farmers and Member States' administrations. Area monitoring should be compulsory from the beginning of the programming period to ensure that: - all MS advance equally in their use of technologies (modernisation is a key objective of the future CAP); - data necessary for performance reporting is created efficiently and in an automatised way; - assurance on CAP expenditure is provided through reliable data on reported output and result indicators; - all MS create a system that helps beneficiaries to comply with their obligations and receive CAP support with minimum disruption to their farming activities instead of

	focusing on achieving performance by strict controls and penalties. All this ensures a level playing field for farmers in the EU. In sum, COM is strongly opposed to making the area monitoring system optional. Allowing for a transition period would create differences in the level of digitisation of administration/ farmers between MS, which would also impact negatively on the efficiency of administering the CAP and thus indirectly creating issues with the competitiveness of the sector. COM is thus not in favour of a transition period. COM will strongly support MS in developing the area monitoring system through technical and legal work. Please note that further rules on the area monitoring system may be developed in implementing acts.
Paragraph 1 Pursuant to letter (b), IACS should comprise a geo-spatial and an animal-based application system, Does this mean that an animal module should be integrated into GSAA? Conditional upon the explanation, we suggest deleting part of letter (b). We have serious reservations against the compulsory introduction of monitoring in IACS.	It is left to the MS to decide on the details of the system of applications. When designing their application(s) system MS should however bear in mind the following principles: support the farmer as much as possible in submitting correct declarations and make the application(s) simple to use so as to minimise the time spent by farmers on filling in their claims. These principles are already embedded in the current legislation on the aid applications/ payment claims and the GSAA. Freely available Earth Observation data captured by the Copernicus Sentinel satellites and other innovative technologies provide significant information on agricultural activities across the EU. Using these technologies will modernise and improve the administration, monitoring and overall operation of the CAP and have multiple benefits for farmers and Member States' administrations. Area monitoring should be compulsory from the beginning of the programming period to ensure that: - all MS advance equally in their use of technologies (modernisation is a key objective of the future CAP); - data necessary for performance reporting is created efficiently and in an automatised way; - assurance on CAP expenditure is provided through reliable data on reported output and result indicators; - all MS create a system that helps beneficiaries to comply with their obligations and receive CAP support with minimum disruption to their farming activities instead of focusing on achieving performance by strict controls and penalties. All this ensures a level playing field for farmers in the EU. In sum, COM is strongly opposed to making the area monitoring system optional. Allowing for a transition period would create differences in the level of digitisation of administration/ farmers between MS, which would also impact negatively on the

	efficiency of administering the CAP and thus indirectly creating issues with the competitiveness of the sector. COM is thus not in favour of a transition period. COM will strongly support MS in developing the area monitoring system through technical and legal work. Please note that further rules on the area monitoring system may be developed in implementing acts. COM would like to clarify that the area monitoring system in the proposed HZR should be distinguished from the "checks by monitoring" in the current legislation (Ar. 40a, R.809/2014). The area monitoring system in the future will be a system of monitoring agricultural activities, which may be used for checks on eligibility conditions or not, depending on the decision of the MS. Please see as well COM's non-paper on the purpose and functions of monitoring in post-2020.
Paragraph 1 Paragraph 1(c) – states that the integrated system to be set up and operated by MS shall comprise a number of obligatory elements, which include an area monitoring system. Malta is actively working on the development of a monitoring system together with the development of two mobile applications. These applications include a communication system between the paying agency and the farmer, as well as an application to capture and upload geotagged photos by the farmer, farmer representatives and also inspectors.	COM welcomes the work done by MT on developing a monitoring system and the related mobile applications.
Paragraph 1 In the current state, we lack of large scale experiences in monitoring. First MS will start their pilots only in 2019. Therefore, we believe that the proposal should at least foresee a transitional period for the mandatory introduction of monitoring as a part of IACS. Alternatively, monitoring could be seen as an option for MS.	Freely available Earth Observation data captured by the Copernicus Sentinel satellites and other innovative technologies provide significant information on agricultural activities across the EU. Using these technologies will modernise and improve the administration, monitoring and overall operation of the CAP and have multiple benefits for farmers and Member States' administrations. COM would like to clarify that the area monitoring system in the proposed HZR should be distinguished from the "checks by monitoring" in the current legislation (Art. 40a, R.809/2014). The area monitoring system in the future will be a system of monitoring agricultural activities, which may be used for checks on eligibility conditions or not, depending on the decision of the MS. COM will strongly support MS in developing the area monitoring system through technical and legal work. Please note that further rules on the area monitoring system may be developed in implementing acts. Area monitoring should be compulsory from the beginning of the programming period to ensure that: - all MS advance equally in their use of technologies (modernisation is a key objective of the future CAP);

	- data necessary for performance reporting is created efficiently and in an automatised way; - assurance on CAP expenditure is provided through reliable data on reported output and result indicators; - all MS create a system that helps beneficiaries to comply with their obligations and receive CAP support with minimum disruption to their farming activities instead of focusing on achieving performance by strict controls and penalties. All this ensures a level playing field for farmers in the EU. In sum, COM is strongly opposed to making the area monitoring system optional. Allowing for a transition period would create differences in the level of digitisation of administration/ farmers between MS, which would also impact negatively on the efficiency of administering the CAP and thus indirectly creating issues with the competitiveness of the sector. COM is thus not in favour of a transition period. Please see as well COM's non-paper on the purpose and functions of monitoring in post-2020.
Paragraph 1 The introduction of area monitoring is very complex and is not yet technically mature. Area monitoring should therefore be optional for MS. Moreover, the question arises as to whether the area monitoring system is to be used only for reporting on indicators under the strategic plans or whether it should also be included – either as an option or else mandatorily – in the control and sanction system that is to be established by the Member States. This should be clarified. It should also be optional for the control and sanction system.	Freely available Earth Observation data captured by the Copernicus Sentinel satellites and other innovative technologies provide significant information on agricultural activities across the EU. Using these technologies will modernise and improve the administration, monitoring and overall operation of the CAP and have multiple benefits for farmers and Member States' administrations. COM would like to clarify that the area monitoring system in the proposed HZR should be distinguished from the "checks by monitoring" in the current legislation (Ar. 40a, R.809/2014). The area monitoring system in the future will be a system of monitoring agricultural activities, which may be used for checks on eligibility conditions or not, depending on the decision of the MS. COM will strongly support MS in developing the area monitoring system through technical and legal work. Please note that further rules on the area monitoring system may be developed in implementing acts. Area monitoring should be compulsory from the beginning of the programming period to ensure that: - all MS advance equally in their use of technologies (modernisation is a key objective of the future CAP); - data necessary for performance reporting is created efficiently and in an automatised way; - assurance on CAP expenditure is provided through reliable data on reported output and result indicators;

	- all MS create a system that helps beneficiaries to comply with their obligations and receive CAP support with minimum disruption to their farming activities instead of focusing on achieving performance by strict controls and penalties. All this ensures a level playing field for farmers in the EU. In sum, COM is strongly opposed to making the area monitoring system optional. Allowing for a transition period would create differences in the level of digitisation of administration/ farmers between MS, which would also impact negatively on the efficiency of administering the CAP and thus indirectly creating issues with the competitiveness of the sector. COM is thus not in favour of a transition period. Please see as well COM's non-paper on the purpose and functions of monitoring in post-2020.
Paragraph 1 There is a need for further clarification on the "where applicable", for the system for the identification and registration of animals	The provision would be applicable for MS using animal-based interventions, thus there is the need for a system of I&R of animals. If, on the contrary, a MS does not have any animal-based interventions, the I&R database should not be an element of IACS.
Paragraph 1 The introduction of an area monitoring system will have a different impact on the reduction of the existing costs of on-the-spot checks in the Member States with regard to the number and size of the LPIS parcels in certain countries. Member States with a large number of small parcels, such as Croatia, will benefit less from the cost reduction of on-the-spot checks due to the inability to control small parcels solely by the monitoring system. Likewise, Member States with large areas of grazing pastures will still have significant costs of on-the-spot checks since maintenance of such surface can not be controlled solely by monitoring. Therefore, it is necessary to consider the possibility of introducing technical assistance to co-finance the introducing of the new monitoring system.	COM would like to clarify that the area monitoring system in the proposed HZR should be distinguished from the "checks by monitoring" in the current legislation (Ar. 40a, R.809/2014). The area monitoring system in the future will be a system of monitoring agricultural activities, which may be used for checks on eligibility conditions or not, depending on the decision of the MS. Please see as well COM's non-paper on the purpose and functions of monitoring in post-2020. Furthermore, COM considers the issue of 'monitorability' of small or irregular parcels a technical issue which will be overcome in the near future, certainly before the start of the next programming period. An approach for monitoring areas of pastures maintained by grazing by combining monitoring and LPIS data has also been developed. Technical assistance at the initiative of the Commission will in principle not be available for setting up IACS elements. However, it will be possible to finance actions related to the administration and implementation of the entire CAP Strategic Plan, including IACS, under technical assistance at the initiative of MS (please see also COM's non-paper on CAP expenditure under direct management). COM will also strongly support MS through technical and legal work.
Articles 64 and Articles 66 to 73 should be deleted entirely. See general comment under Article 63.	The proposal to delete most articles on IACS cannot be accepted. Defining common elements of IACS, which is part of the governance systems, and providing COM with the empowerment to further define features of key elements ensures a level playing field across EU MS in the administration and control of CAP expenditure.

	IACS is a known and well-functioning system for administering CAP payments (area- and animal based) and has been successful in keeping the error rates comparatively low; hence, COM wishes to continue IACS. IACS is therefore part of the required governance system that need to be in place throughout the period of implementation of the CAP strategic plans in the post-2020 period.
Article 65 Data keeping and sharing	
Paragraph 5 Who should assess whether public access would adversely affect the conditionality of personal data? There should be a clear methodology for the publication of personal data.	COM does not consider necessary to define a methodology for the publication of personal data stemming from IACS. Regulation (EU) 2016/679 is applicable. All institutions handling personal data have to respect it.
Paragraph 5 Article 65(5) shall be deleted. The content is already apparent from the General Data Protection Regulation. Double regulation is not required.	For reasons of clarity concerning the sharing of IACS data sets containing personal data, the provision should remain.
Paragraph 5 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 Satelitte data should (partly) be used for support in respect of efficient EU datasharing	COM is already working with MS to define a process for sharing IACS data. It is COM's goal to ensure that the process, if followed by MS, ensures compliance with the requirements set out in this paragraph (Art. 65(3)). The process will not require the development of dedicated common IT tools, it will rely on existing IT infrastructures (namely INSPIRE geoportal under Directive 2007/2/EC). Hence, there is no need to allocate a specific budget for that purpose.
Paragraph 4 How do we treat personal data if the Community statistical authority, the national statistical institutes and other national authorities responsible for producing European statistics request such data? Can they be made available to them? What is the legal basis?	If personal data are necessary for the correct production of European statistic, these should be shared as well. In this case, the obligation to limit public access to IACS data sets where such access would adversely affect the confidentiality of personal data (cf. Article 65(5) of the proposed HZR) is extended to all institutions handling these data. The legal basis is provided in Articles 65(4) and (5) of this proposal.
Paragraph 4 Article 65 (d) The following should be added to 4: It is also necessary to cover the free provision of data sets required by Regulation (EC) No 1217/2009 for the Farm Accountancy Data Network.	COM takes note of the proposal. The need and impact of adding reference to the FADN Regulation will be considered.
Paragraph 4 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	COM is already working with MS to define a process for sharing IACS data. It is COM's goal to ensure that the process, if followed by MS, ensures compliance with the requirements set out in this paragraph (Art. 65(3)). The process will not require the development of dedicated common IT tools, it will rely on existing IT infrastructures.

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 Satelitte data should (partly) be used for support in respect of efficient EU datasharing	Hence, there is no need to allocate a specific budget for that purpose.
Paragraph 3 We would kindly ask the Commission for the explanation what should be understood as " publicly available data on national level". Should such be accessible to contain also personal data (personal name) or only as anonymized data?	As indicated in Art. 65(5) of the proposed HZR, public access to data sets shall be limited where such access would adversely affect the confidentiality of personal data, in accordance with Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.
Paragraph 3 There is a lack of legal certainty as regards data sets. On the basis of what should the data sets be made publicly available? It is not only the INSPIRE directive that is mentioned here, but also data "…or relevant for monitoring Union policies" – this is a very broad scope and it is unclear how this corresponds to the data protection? Conditional upon the explanation, we suggest that this part of the provision be deleted.	As indicated in Art. 65(5) of the proposed HZR, public access to data sets shall be limited where such access would adversely affect the confidentiality of personal data, in accordance with Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.
Paragraph 3 Could the Commission specify which data sets are considered as being relevant for the purpose of Directive 2007/2/EC?	COM does not intend to define in EU legislation the scope of this requirement, i.e. which data sets have to be shared. The wording of the provision, however, sets out the main principles of what has to be shared and with whom. Firstly, data sets collected through IACS have to be shared which is to be understood as "existing data sets that are collected through IACS for the purpose of managing interventions defined in the strategic plans" have to be shared. This is necessary to limit the burden imposed on beneficiaries and administrations. However, where spatial data are already available in IACS and are relevant for the purposes of monitoring EU policies, particularly environment and climate (Directive 2007/2/EC), these have to shared at MS level between public authorities and have to be made available to the public. Finally, institutions and bodies of the Union shall also have access to these data sets. COM is already working with MS to define a process for sharing IACS data. It is COM's goal to ensure that the process, if followed by MS, ensures compliance with the requirements set out in this paragraph (Art. 65(3)).
Paragraph 3 Could you clarify what kind of data is relevant for the purposes of Directive 2007/2/EC? Does this mean all data collected through the integrated system or only data relevant in terms of environment and climate?	COM does not intend to define in EU legislation the scope of this requirement, i.e. which data sets have to be shared. The wording of the provision, however, sets out the main principles of what has to be shared and with whom. Firstly, data sets collected through IACS have to be shared which is to be understood as "existing data sets that are collected through IACS for the purpose of managing interventions defined in the strategic plans" have to be shared. This is necessary to limit the burden imposed on beneficiaries and administrations. However, where spatial data are

	already available in IACS and are relevant for the purposes of monitoring EU policies, particularly environment and climate (Directive 2007/2/EC), these have to shared at MS level between public authorities and have to be made available to the public. Finally, institutions and bodies of the Union shall also have access to these data sets.
Paragraph 3 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 Satelitte data should (partly) be used for support in respect of efficient EU datasharing.	COM is already working with MS to define a process for sharing IACS data. It is COM's goal to ensure that the process, if followed by MS, ensures compliance with the requirements set out in this paragraph (Art. 65(3)). The process will not require the development of dedicated common IT tools, it will rely on existing IT infrastructures (the Inspire infrastructure). Hence, there is no need to allocate a specific budget for that purpose.
Paragraph 3 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. In our opinion, the same data should be shared, free of charge, among MS for the purposes of transparency and information exchange.	MS may decide to share data amongst them if they wish to do so. Article 64(4) of the proposed HZR (mutual assistance) may provide a legal basis.
Paragraph 2 Regarding the obligation to preserve the information for ten years, the Commission must clarify and specify the scope of this obligation, especially in consideration of the data of the area monitoring and the data of campaigns prior to the approval of the CAP strategic plans.	The intention of the provision is to ensure that data relevant for the verification of eligibility of payments (outputs) and performance (results), is available for a sufficient period of time. COM will not require the retroactive application of the provision, except for data from the computerised database for applications, in continuation of the current legislation. For other data relevant to the annual performance clearance and performance review, the obligation applies as of the first year of application of interventions defined in the CAP strategic plan. COM does not intend to further define this requirement as MS are better placed to assess what has to be kept in order to provide adequate document trail for the annual performance clearance and performance review. Primary data used for the area monitoring system, i.e. Copernicus Sentinels data, do not have to be stored locally. A cloud service such as DIAS is acceptable.
Paragraph 2 According to the proposal, MS may record and keep data and documentation at regional level. Who is the body in charge for such activity? (i.e.: intermediate bodies? Regional Paying Agencies?)	It is left to the MS to decide which institutions (bodies) at regional level will be in charge of data keeping. The only principles to be respected are that the administrative procedures linked to data keeping are (i) designed to be uniform throughout the territory of the MS and (ii) enable data to be aggregated at national level.

Paragraph 1 What is the starting point for the calculation of 10 years in the second subparagraph? Should this be retroactively applied to the period prior to 2021, we are against this provision and request that it be deleted. There may be different requirements and data collected; digital databases may not necessarily exist for specific data for the purposes of yearly outputs. Conditional upon the explanation, we suggest that this part of the provision be deleted.	The intention of the provision is to ensure that data relevant for the verification of eligibility of payments (outputs) and performance (results), is available for a sufficient period of time. COM will not require the retroactive application of the provision, except for data from the computerised database for applications, in continuation of the current legislation. For other data relevant to the annual performance clearance and performance review, the obligation applies as of the first year of application of interventions defined in the CAP strategic plan. COM does not intend to further define this requirement as MS are better placed to assess what has to be kept in order to provide adequate document trail for the annual performance clearance and performance review.
Paragraph 1 2nd subparagraph - Portugal has doubts about the obligation to maintain data and documentation regarding the annual performance clearance in digital format and to ensure immediate access for a period of 10 calendar years, a requirement that involves high administrative costs and does not meet the simplification objective. Clarification is required as to the retroactive implementation of this provision, since its aim is to safeguard the elements used for the purpose of the annual performance clearance under the future CAP.	The time period is a continuation of the current legislation (data from the computerised database for applications has to be kept for 10 years). The current approach in data keeping (which data and documents), adapted to the needs of the performance-based delivery model, should be continued. The intention of the provision is indeed to ensure that data relevant for the verification of eligibility of payments (outputs) and performance (results), is available for a sufficient period of time. COM will not require the retroactive application of the provision, except for data from the computerised database for applications, in continuation of the current legislation. For other data relevant to the annual performance clearance and performance review, the obligation applies as of the first year of application of interventions defined in the CAP strategic plan. COM does not intend to further define this requirement as MS are better placed to assess what has to be kept in order to provide adequate document trail for the annual performance clearance and performance review.
Paragraph 1 Regarding data storage we believe that 10 calendar years period should be shortened. Taking into account that according to CAP strategic plans regulation all the outputs and other indicators for the next period will be reported regarding financial years, the paragraph should be reviewed and calendar years should be replaced by financial years.	The time period is a continuation of the current legislation (data from the computerised database for applications has to be kept for 10 years). The current approach in data keeping (which data and documents), adapted to the needs of the performance-based delivery model, should be continued. The intention of the provision is to ensure that data relevant for the verification of eligibility of payments (outputs) and performance (results), is available for a sufficient period of time. COM takes note of the proposal. The feasibility of substituting “calendar/ marketing years” with “financial years” will be considered.
Paragraph 1	COM takes note of the proposal. The feasibility of substituting “calendar/ marketing

(1) Subparagraph 2: The annual performance report defined in the CAP Strategic Plan Regulation requires data for financial years. In contrast, calendar and marketing year is mentioned in this Article. It is necessary to create consistency among different provisions for collecting and supplying data.	years" with "financial years" will be considered.
Paragraph 1 In Article 65(1), last subparagraph, also in relation to the area monitoring system, it is to be clarified that only the results are to be retained. The storage of the complete picture material over 10 years would be far to complicated/costly.	COM does not intend to further define this requirement, e.g. if it necessary to keep every document sent by the farmer or summaries may be used, as MS are better placed to assess what has to be kept in order to provide adequate document trail for the annual performance clearance and performance review. Primary data used for the area monitoring system, i.e. Copernicus Sentinels data, do not have to be stored locally. A cloud service such as DIAS is acceptable.
Paragraph 1 We have some concerns relating to the costs of all data keeping required. For planning the data system it is very important to know beforehand what kind of information and communication obligations Member States will have in future. We would like to ask if it is necessary to keep every document sent by the farmer or whether some kind of summaries could be used?	Work on defining reporting obligations linked to the annual performance clearance and the annual performance review is ongoing. As this goes beyond IACS data, an answer to this question cannot be provided. The issue will be addressed in the framework of discussions on the PMEF. COM does not intend to further define this requirement, e.g. if it is necessary to keep every document sent by the farmer or if summaries may be used, as MS are better placed to assess what has to be kept in order to provide adequate document trail for the annual performance clearance and performance review. Primary data used for the area monitoring system, i.e. Copernicus Sentinels data, do not have to be stored locally. A cloud service such as DIAS is acceptable.
Paragraph 1 The data and documentation should be accessible for the current calendar year or marketing year and only for the previous **five (** and not ten) calendar years or marketing years.	The time period is a continuation of the current legislation (data from the computerised database for applications has to be kept for 10 years). The current approach in data keeping (which data and documents), adapted to the needs of the performance-based delivery model, should be continued. The intention of the provision is to ensure that data relevant for the verification of eligibility of payments (outputs) and performance (results), is available for a sufficient period of time.
Paragraph 1 and 3 Can the Commission explain the scope of the requirement of data sharing for environment-climate purposes (cfr. presentation of the Commission)? Language – French version: "productions annuelles" should be replaced by "réalisations annuelles".	Recital 49 clarifies that bolstering of environmental care and climate action and contributing to the achievement of EU environmental and climate objectives is a strategic orientation of the future CAP. Hence, sharing IACS spatial data for environment and climate purposes is required. COM does not intend to define in EU legislation the scope of this requirement, i.e. which data sets have to be shared. The wording of the provision, however, sets out the main principles of what has to be shared and with whom. Firstly, data sets collected through IACS have to be shared, which should be understood as "existing data sets that are collected through IACS for the purpose of managing interventions

	defined in the strategic plans" have to be shared. This is necessary to limit the burden imposed on beneficiaries and administrations. However, where spatial data are already available in IACS and are relevant for the purposes of monitoring EU policies, particularly environment and climate, these have to shared at MS level between public authorities and have to be made available to the public. Finally, institutions and bodies of the Union shall also have access to these data sets. The provision does not impose the way how this is to be achieved. COM is currently working with MS to define a process for sharing IACS data. It is COM's goal to ensure that the process, if followed by MS, ensures compliance with the requirements set out in this paragraph (Art. 65(3)). COM takes note of the drafting suggestions in the French version.
Paragraph 1 It should be clearly stated which requirements there will be for the storage of data from Copernicus Sentinels satellite used in relation to the area monitoring system. It should be allowed that data used for the area monitoring system might be stored as raw data on an external server, i.e. Copernicus server via DIAS.	Primary data used for the area monitoring system, i.e. Copernicus Sentinels data, do not have to be stored locally. A cloud service such as DIAS is acceptable.
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.	The proposal of leaving the definitions and setup of IACS completely to the Member States is not acceptable. IACS is a known and well-functioning system for administering CAP payments (area- and animal based) and has been successful in keeping the error rates comparatively low; hence, COM wishes to continue IACS. LPIS, as a key element of IACS, is therefore part of the required governance system that need to be in place throughout the period of implementation of the CAP strategic plans in the post-2020 period. Defining common elements of IACS, which is part of the governance systems, and providing COM with the empowerment to further define features of key elements ensures a level playing field across EU MS in the administration and control of CAP expenditure.
It is important to make sure that information that is made easy available by new techniques is treated with cautiousness. Information should neither be treated by commercial actors so that the beneficiary of support is disadvantaged.	As indicated in Art. 65(5) of the proposed HZR, public access to data sets shall be limited where such access would adversely affect the confidentiality of personal data, in accordance with Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.
In principle, we wonder what further requirements have to be fulfilled to comply with the new data keeping and sharing provisions. We want to limit any possible additional workload for the paying agencies.	The intention of the provision is to ensure that data relevant for the verification of eligibility of expenditure (outputs) and performance (results), is available for a sufficient period of time. COM does not intend to further define this requirement as MS are better placed to

	assess what has to be kept in order to provide adequate document trail for the annual performance clearance and performance review. Regarding data sharing, MS shall already comply with INSPIRE legislation that foresees sharing of spatial data.
La France considère qu'une durée de dix ans au cours de laquelle il est obligatoire de conserver les données paraît être excessive. Il serait également souhaitable que la Commission apporte des précisions sur les données devant être conservées.	The time period is a continuation of the current legislation (data from the computerised database for applications has to be kept for 10 years). The current approach in data keeping (which data and documents), adapted to the needs of the performance-based delivery model, should be continued. The intention of the provision is to ensure that data relevant for the verification of eligibility of payments (outputs/ payments) and performance (results), in the 7-year programming period is available for a sufficient period of time. COM does not intend to further define this requirement as MS are better placed to assess what has to be kept in order to provide adequate document trail for the annual performance clearance and performance review.
We express our concern about the new obligation to record and keep the data and documentation in the context of the annual performance clearance, particularly in respect to the 10-year retroactive period. It will be necessary to increase the storage capacity of payment agencies for storing data and documentation in digital databases, which is a part of new financial costs, and it increases the administrative burden for Member States. The clarification which exact documents should be kept is needed.	The time period is a continuation of the current legislation (data from the computerised database for applications has to be kept for 10 years). The current approach in data keeping (which data and documents), adapted to the needs of the performance-based delivery model, should be continued. The intention of the provision is to ensure that data relevant for the verification of eligibility of expenditure (outputs) and performance (results), i.e. the annual performance clearance and the annual performance review, in the 7-year programming period is available for a sufficient period of time. COM will not require the retroactive application of the provision, except for data from the computerised database for applications, in continuation of the current legislation. For other data relevant to the annual performance clearance and performance review, the obligation applies as of the first year of application of interventions defined in the CAP strategic plan. COM does not intend to further define this requirement as MS are better placed to assess what has to be kept in order to provide adequate document trail for the annual performance clearance and performance review. Primary data used for the area monitoring system, i.e. Copernicus Sentinels data, do not have to be stored locally. A cloud service such as DIAS is acceptable.
Article 66 Identification system for agricultural parcels	
(valid for all QAs) the draft regulation obliges MSs to annually assess the quality of the set IACS system	COM strongly disagrees that carrying out quality assessments constitutes excessive administrative burden. IACS is an element of the governance system that provides ex-

(art. 66, 67, 68) and to yearly review the control system for conditionality (art. 84). Firstly, such obligation constitutes excessive administrative burden. Secondly, in case of the need to improve the system, this will trigger the need to adapt the Strategic Plan. However, in terms of the procedure regarding submission and approval of the CAP Strategic Plans proposed by the EC i.e. […] it is not realistic to implement those amendments in short term for the following year after such review. Therefore, it is so important to provide for solutions guaranteeing MSs legal certainty already at the level/stage of basic acts, so that provisions implemented by MSs at national level will be determined properly and will not be undermined by the EC and ECA audits.	ante assurance on CAP expenditure. The purpose of the Quality Assessments is to give MS a methodology to check on a regular basis the functioning of their systems so that, when issues are revealed, MS can react before COM asks for remedial action to be taken by means of an action plan in accordance with Article 40. Hence, the QAs have a preventative role. COM does not see the need to amend the Strategic Plan when remedial actions are taken to improve the LPIS, GSA or the area monitoring system, as such actions simply serve the purpose of keeping the governance systems up to standard and should have no impact on the content of the CAP Strategic Plan. IACS is expected to function properly on a continuous basis. Where this is not the case, remedial action should be taken as soon as possible by possibly drawing up and implementing an action plan.
Paragraph 3 The deadline of 15 February should be extended, given that it is proposed that on this date the Paying Agency submits three reports to the Commission: Identification system for agricultural parcels, Geo-spatial and animal-based application system and Area monitoring system, in addition to the annual performance report itself.	Concerning the deadline, COM is against postponing the proposed date of 15/02. Currently, the deadline to submit the LPIS QA report is 31/01. This date allows MS and COM to discover early in the year issues with the LPIS. The same principle should be maintained for the future. Having a deadline early in the year is essential for the MS to identify and address any issues related to key IACS elements in a timely manner.
Paragraph 3 LU acknowledges that a quality assessment can be useful, but has a reserve as regards the additional administrative burden of an annual assessment.	COM disagrees that carrying out quality assessments constitutes administrative burden. IACS is an element of the governance system that provides ex-ante assurance on CAP expenditure. The purpose of the Quality Assessments is to give MS a methodology to check on a regular basis the functioning of their systems so that, when issues are revealed, MS can react before COM asks for remedial action to be taken by means of an action plan in accordance with Article 40. Hence, the QAs have a preventative role and they have to be considered as tools for the MS to improve their systems. In addition, the methodology of the LPIS QA is already developed and applied annually since 2010. Since the functions of the LPIS will not change, the LPIS QA methodology and its scope are not expected to change significantly; minor modifications may be necessary to reflect the different approach in setting rules on eligibility. In the absence of significant changes to the LPIS QA methodology, it is not realistic to expect that administrative costs/ burden will increase.
Paragraph 3 For the purpose of the reporting requirement, 15 February following the calendar year in question is too short. It is proposed here on 15 April.	Concerning the deadline, COM is against postponing the proposed date of 15/02. Currently, the deadline to submit the LPIS QA report is 31/01. This date allows MS and COM to discover early in the year issues with the LPIS. The same principle should be maintained for the future. Having a deadline early in the year will help MS and COM to identify and address any issues related to key IACS elements in a timely manner.
Paragraph 3	The methodology of the LPIS QA is already developed and applied annually since

There is a concern about the annual quality assessment of the Identification system for agricultural parcels . This could lead to additional administrative cost .	2010. Since the functions of the LPIS will not change, the LPIS QA methodology and its scope are not expected to change significantly; minor modifications may be necessary to reflect the different approach in setting rules on eligibility. In the absence of significant changes to the LPIS QA methodology, it is not realistic to expect that administrative costs/ burden will increase.
Paragraph 3 Regarding the required annual quality assessments (art. 66 to 68): which kind of information should be delivered? Depending on the expectations of the Commission and the obligation to assess several systems the date of 15 February should be reconsidered (administrative burden).	The information to be delivered for the LPIS QA will be similar to the current period since the methodology is not expected to change significantly; minor modifications may be necessary to reflect the different approach in setting rules on eligibility. Since the methodologies for the GSA and monitoring QAs are not developed yet, it is not possible to provide a concrete answer. The general approach, however, will not change compared to the LPIS QA. On the content, the quality elements will be designed to reflect the functions that the GSA/ area monitoring are meant to achieve; benchmarks of quality will be set. On the process, as in the past, the methodology of the new QAs will be developed in cooperation with MS. JRC and AGRI will start work on the methodology in 2019. Concerning the deadline, COM is against postponing the proposed date of 15/02. Currently, the deadline to submit the LPIS QA report is 31/01. This date allows MS and COM to discover early in the year issues with the LPIS. The same principle should be maintained for the future. Having a deadline early in the year will help MS and COM to identify and address any issues related to key IACS elements in a timely manner.
Paragraph 3 Concernant les évaluations annuelles à effectuer par les Etats membres prévues aux articles 66,67 et 68, il est souhaitable de définir clairement leur contenu dans l'acte de base, compte tenu de la charge administrative que cela peut générer. Par ailleurs, l'échéance du 15 février n'est pas réaliste ; il est proposé de se référer à l'exercice financier plutôt que l'année civile. Par exemple, pour les aides de l'année 2022, payées sur l'exercice financier 2023, la date limite de transmission serait le 15 février 2024	COM is against defining detailed requirements on the QAs in the basic act. While the purpose of the QAs will not change, technological innovation or a change in the policy direction may have an impact on the specific elements tested in the QAs. Hence, defining the QAs in the basic act could block future innovation. In continuation of the current approach, legal certainty on the requirements will be given in a DA. An empowerment for a delegated act is foreseen. Concerning the deadline for reporting and particularly linking the exercise to the financial year, COM is against such a proposal. It is important to discover asap issues with key elements of IACS (LPIS, GSA and area monitoring); in the current period, the timing has not been challenged and has proven appropriate. Hence, the current approach should be maintained (analysis for year N to be submitted in year N+1).
Paragraph 3 Regarding the annual quality assessment of the agricultural parcel identification system, more details are requested: - on the scope of these assessments; - on action plans and corrective actions in case of evidence of system deficiencies.	The methodology of the LPIS QA is already developed and applied since 2010. Since the functions of the LPIS will not change, the LPIS QA methodology and its scope are not expected to change significantly; minor modifications may be necessary to reflect the different approach in setting rules on eligibility. In continuation of the current approach, the main quality elements will be defined in a

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?	delegated act (empowerment requested, cf. Article 72(a)) while the detailed methodology will be described in JRC technical documents. The purpose of the Quality Assessments is to give MS a methodology to check on a regular basis the functioning of their systems so that, when issues are revealed, MS can react before COM asks for remedial action to be taken by means of an action plan in accordance with Article 40. Hence, the QAs have a preventative role. Appropriate remedial actions are the actions that target the deficiencies revealed by the QA. For instance, a remedial action plan that would target only QE4 while the QA reveals a non-conformity on QE1 and QE4 could not be considered appropriate. An appropriate remedial action plan is also expected to include an analysis of the QA results, a description of the remedial actions, expected results (targets) and a timeline of implementation of the remedial actions. Only where a MS fails to submit or to implement the remedial action plan effectively and the deficiency is of a serious nature, MS may be asked by COM to set up an action plan in accordance with Article 40. Concerning the setting up of action plans in accordance with Article 40, implementing acts on further rules on the elements and the procedure for setting up the action plans may be adopted by the COM. Finally, only where a MS fails to submit, to implement the action plan or of that action plan is clearly insufficient to remedy the situation, COM may proceed to suspension of monthly payments.
Paragraph 2 PARAGRAPH A The Commission should clarify and specify the scope of the obligation to use the LPIS in the management of the areas of sectoral intervention in Chapter III, Title III of the CAP Strategic Plan Regulation, Specifically, it must be clarified if the information of the wine registers can continue to be used for the management of the aid to the wine sector. PARAGRAPH D The Commission should clarify and specify the scope of the obligation to include in the LPIS information necessary to obtain indicators. In this regard, remember that Spain has already requested that existing data sources should be used to obtain the indicators (see observation of Article 7 of the Strategic Plan Regulation)	Concerning measures in the wine sector, the integrated system can be used for these measures to the extent necessary (cf. Article 63(3) of the proposed HZR). Information in wine registers can be used. Concerning Article 66(2)(d), COM's intention is to ensure that relevant geo-localised data/information for the reporting on indicators included in the Annex I of the CAP Strategic Plan Regulation are recorded in the integrated system (IACS). This will ensure that data for indicators is available and fully comparable between MS. COM agrees that in view of limiting costs and workload, existing data sources should be used whenever possible. However, to fulfil the obligations set out in Article 65(3) (sharing of IACS data sets relevant for the production of European statistics) and Article 129 of the proposed CAP Plan Regulation (sharing of IACS information necessary for the evaluation and monitoring of the CAP), adaptations (developments) of IACS and LPIS may be required (e.g. development of IT tools to enable the extraction of necessary data).
Paragraph 2 What is understood by "up-to-date values" in letter (b)?	A similar provision exists in Article 5 of the current IACS DA (R. 640/2014). There has been no change in the approach on the functions of LPIS and one of them is to keep

We do not agree with the wording of letter (d), according to which the LPIS should contain any information relevant for the reporting on the indicators referred to in Art. 7 of draft Reg. on Strategic plans. The wording is too broad; Art. 7 covers all indicators and it is unclear which should be included in the LPIS and why. Such wording could mean that a significant adjustment of the LPIS be necessary, with potentially significant financial impact.	up-to-date information on areas eligible for payment. Please note that COM does not intend to set out a legally binding update. However, the COM expects that new known and conclusive information on agricultural parcels should be used to keep LPIS in an up-to-date state. Concerning Article 66(2)(d), COM's intention is to ensure that geo-localised data/information that are relevant for reporting on indicators included in the Annex I of the CAP Strategic Plan Regulation are recorded in the integrated system (IACS). This will ensure that data for indicators is available and fully comparable between MS. Work on defining reporting obligations linked to the PMEF is ongoing. As this goes beyond IACS data, more details cannot be provided at this stage. The issue will be addressed in the framework of discussions on the PMEF.
Paragraph 2 At point a), Are we talking about each agricultural parcel or land plot? At point c), "the correct localisation of agricultural parcels and non-agricultural areas" should be more clear defined.	Concerning point a), the definition of agricultural parcel is given in Article 63(4)(d). Essentially, it is a unit of agricultural area as defined in Article 4 of the CAP Strategic Plan Regulation. Please note that MS may further define agricultural parcel to address the specificities of the different area-based interventions, e.g. agri-environmental interventions. Concerning point c), the correct localisation implies that the location of agricultural parcels and non-agricultural areas claimed for payment should reflect the reality on the ground. This function may be taken up by the geo-spatial application as well.
Paragraph 2 Letter d): What does the Commission have in mind? What would be the impact on LPIS data? We believe that information relevant for the reporting of indicators should be stored/managed in the framework of claim data in IACS data bases (not at level of reference data).	COM's intention is to ensure that relevant geo-localised data/information for reporting on indicators included in the Annex I of the CAP Strategic Plan Regulation are recorded in the integrated system (IACS). This will ensure that data for indicators is available and fully comparable between MS. COM takes note of the proposal to strore/manage these data in the database of applications. Although work on defining reporting obligations linked to the PMEF is ongoing, it is likely that a wider set of data than only application data will be necessary.
Paragraph 2 2. d) Further explanation is required on what "any information relevant for reporting" means, because Article 7 of the CAP Strategic Plan Regulation contains all the indicators in Annex I.	COM's intention is to ensure that geo-localised data/information that are relevant for reporting on indicators included in the Annex I of the CAP Strategic Plan Regulation are recorded in the integrated system. This will ensure that data for indicators is available and fully comparable between MS. Work on defining reporting obligations linked to the PMEF is ongoing. As this goes beyond IACS data, more details cannot be provided at this stage. The issue will be addressed in the framework of discussions on the PMEF.
Paragraph 2 Point d states that the LPIS shall contain any information relevant for the	COM's intention is to ensure that geo-localised data/information that are relevant for reporting on indicators included in the Annex I of the CAP Strategic Plan Regulation

reporting on the indicators referred to in Article 7 of Regulation (EU) …/…[CAP Strategic Plan Regulation. Does this mean that there must be layers in the LPIS for every year which must be kept for 10 years? In future, will the LPIS also be the place to include statistical information, which would not be cost effective? Technically better way would be to store the data in separate databases that are connected to LPIS. No statistical etc. data should be stored to the LPIS-system itself. Why does Article 112 of CAP Strategic Plan Regulation also include rules on the LPIS and its statistical information. Why are these rules concerning LPIS not in HZR and why should the LPIS include statistical information?	are recorded in the integrated system (IACS). This provision ensures that data for indicators is available and fully comparable between MS. Indeed, the "retention time" is defined in the data keeping provision (cf. Article 65) and is set at 10 years. MS are better placed to assess if this requires maintaining separate LPIS layers for every year of the programming period or other technical solutions that may be appropriate. Neither Article 66 of the proposed HZR nor Article 129 of the CAP Strategic Plan Regulation require statistical information to be recorded in the LPIS. To fulfil the obligations set out in Article 65(3) of the proposed HZR (sharing of IACS data sets relevant for the production of European statistics) and Article 129 of the proposed CAP Plan Regulation (sharing of IACS information necessary for the evaluation and monitoring of the CAP), IACS data have to be shared and this may require adaptions (developments) of IACS and LPIS (e.g. development of IT tools to enable the extraction of necessary data).
Paragraph 2 (maybe it refers to Par. 3) We assume that the EC should determine the way of assessing whether or not the remedial actions are appropriate. With regard to the seriousness of the risk of suspension of payments, we believe that the procedure of invoking Article 40 should be better described and it should also be better defined what are the appropriate steps to prevent the risk of different interpretation by the MS and EC. The same issue arises with respect to Articles 67 and 68. We also believe that it would be appropriate to set a "transition period" for quality assessment of the area monitoring system in order to optimise the setup of the system. The area monitoring system will be put in place in the MS for the first time with no prior experience, not to speak of the fact that the criteria to assess this system are still unknown and the requirements for this system are not specified in the EC regulation either since it only provides references to Copernicus Sentinels satellite data in Article 63.	The purpose of the Quality Assessments is to give MS a methodology to evaluate on a regular basis the functioning of their systems so that, when issues are revealed, MS can react before COM asks for remedial actions to be taken by means of an action plan in accordance with Article 40. Hence, the QAs have a preventive role and they have to be considered as tools for the MS to improve their systems. Appropriate remedial actions are the actions that aim at improving recurrent or systematic deficiencies revealed by the QA. Taking as example the current LPIS QA, a remedial action plan that would target only QE4 while the QA reveals a non-conformity on QE1 and QE4 could not be considered appropriate. A remedial action plan is also expected to include an analysis of the QA results, a description of the remedial actions planned, expected results (targets) and a timeline of actions. Where a MS fails to submit or to implement the remedial action plan effectively and where the deficiency is of a serious nature, COM may ask the MS to set up an action plan in accordance with Article 40. Concerning the setting up of action plans in accordance with Article 40, implementing acts on further rules on the elements and the procedure for setting up the action plans may be adopted by the COM. Only where a MS fails to submit, to implement the action plan or if that action plan is clearly insufficient to remedy the situation, COM may proceed to suspension of monthly payments. The area monitoring QA methodology (cf. article 68) will be developed and ready for use at the beginning of the next reform. Hence, COM sees no need to propose a transitional period. JRC and AGRI will start working with MS to develop such

	methodology this year already. Clearly, the experiences of MS implementing already the monitoring approach will be of paramount importance. Concerning the criteria to assess the system, as in any QA, the quality elements will be designed to reflect the functions that the area monitoring system is meant to achieve and define benchmarks of quality. Taking the example of the current LPIS QA, the quality elements assess for example. the correct quantification of the eligible area and the correct classification of land cover (AL/ PG/ PC) and define acceptable thresholds of error (conformance thresholds). The same approach will be kept when developing the GSA and area monitoring quality assessments.
Paragraph 2 (d) There is a need for further clarification on information relevant for the reporting on the indicators	COM's intention is to ensure that geo-localised data/information that are relevant for reporting on indicators included in the Annex I of the CAP Strategic Plan Regulation are recorded in the integrated system. This will ensure that data for indicators is available and fully comparable between MS. Work on defining reporting obligations linked to the PMEF is ongoing. As this goes beyond IACS data, an answer to this question cannot be provided at this stage. The issue will be addressed in the framework of discussions on the PMEF. However, this provision does not refer to common context indicators as these are not included in Article 7 of the CAP SP regulation.
Paragraph 2 La localisation des surfaces non agricoles est actuellement une source de complexité administrative importante. La France est attentive aux pistes de simplification qui pourraient être proposées.	COM does not intend to give detailed rules on the deduction of non-agricultural areas. The detailed rules should be developed by the MS taking into consideration the need to preserve the current levels of quality of the LPIS systems.
Paragraph 2 Point (d): 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?	COM's intention is to ensure that geo-localised data/information that are relevant for reporting on indicators included in the Annex I of the CAP Strategic Plan Regulation are recorded in the integrated system (IACS). This will ensure that data for indicators is available and fully comparable between MS. Indicators for which the MS have to record data could be further specified in an implementing act. Work on defining reporting obligations linked to the PMEF is ongoing. As this goes beyond IACS data, an answer to this question cannot be provided at this stage. The issue will be addressed in the framework of discussions on the PMEF. However, this provision does not refer to common context indicators as these are not included in Article 7 of the CAP SP regulation.
Paragraph 1 It is necessary to define "regularly updated ". What is time frame?	The wording "regularly updated" should be seen in conjunction with paragraph (2)(b) of the same Article, where it is stated that the LPIS should contain up-to-date values on the areas considered eligible by the MS. COM does not intend to set out a legally binding update. However, the COM expects that new known and conclusive

	information on agricultural parcels should be used to keep LPIS in an up-to-date state.
SWE is positive about MS having more freedom to decide on detailed regulations.	COM takes note of the comment.
Articles 66 to 73 should be deleted entirely. See general comment under Article 63.	The proposal to delete most articles on IACS cannot be accepted. Defining common elements of IACS, an element of the governance system, and providing COM with empowerments to further define features of key elements ensures a level playing field across EU MS in the administration and control of CAP expenditure. IACS is a known and well-functioning system for administering CAP payments (area- and animal based) and has been successful in keeping the error rates comparatively low; hence, COM wishes to continue IACS. LPIS, as a key element of IACS, is therefore part of the required governance system that need to be in place throughout the period of implementation of the CAP strategic plans in the post-2020 period.
Article 67 Geo-spatial and animal-based	
Paragraph 5 Quality assessments are important to evaluate functions of systems. However, there must be a sense of cost-benefit of any additional measures that are introduced in the CAP. The Quality assessments require a lot of work for the administration. If the Quality assessment is introduced in order to replace the correspondent current auditing, SWE is positive to the change of principle. However, if the Quality assesment is added as an extra layer to evaluation and reporting, we encourage the COM to remove the request.	Since the Commission will not be prescribing detailed rules on how key elements of IACS should be implemented (GSA is a key element of IACS), it is important to ensure at a yearly basis that the functions and quality of the tools are regularly checked, any deficiencies revealed and appropriate remedial action taken, where necessary. The purpose of the Quality Assessments is to give MS a methodology to check on a regular basis the functioning of their systems so that, when issues are revealed, MS can react before COM asks that remedial action is taken by means of an action plan in accordance with Article 40. Hence, the QAs have a preventative role.
Paragraph 5 At present, the GSAA is already an element of the Integrated System. The GSAA is functioning reasonably well without the need for this new element of quality assessment that poses an additional administrative burden for the Member States. The cost-benefit ratio does not justify this measure. Thus it is proposed to delete this provision from the Regulation.	COM disagrees that carrying out quality assessments constitutes administrative burden. IACS is an element of the governance system that provides ex-ante assurance on CAP expenditure. The purpose of the Quality Assessments is to give MS a methodology to check on a regular basis the functioning of their systems so that, when issues are revealed, MS can react before COM asks for remedial action to be taken by means of an action plan in accordance with Article 40. Hence, the QAs have a preventative role. Since the Commission will not be prescribing detailed rules on how key elements of IACS should be implemented (GSA is a key element of IACS), it is important to ensure at a yearly basis that the functions and quality of the tools are regularly checked, any deficiencies revealed and appropriate remedial actions taken, where necessary.
Paragraph 5 This is an additional requirement not provided by the current legislation. It requires enforcement rules, additional costs for the administration and we do not have the certainty that it will be implemented on time. We request exclusion or transition period.	Since the Commission will not be prescribing detailed rules on how key elements of IACS should be implemented (GSA is a key element of IACS), it is important to ensure at a yearly basis that the functions and quality of the tools are regularly checked, any deficiencies revealed and appropriate remedial action taken, where necessary. Hence,

The date of February 15 must be deferred at the earliest on 1 June. The timing of quality control is short and overlaps with LPIS QA.	a transition period for QAs cannot be foreseen. Currently, the deadline to submit the LPIS QA report is 31/01. This date allows MS and COM to discover early in the year issues with the LPIS. The same principle should be maintained for the future. Having a deadline early in the year will help MS and COM to identify and address any issues related to key IACS elements in a timely manner.
Paragraph 5 The deadline of 15 February should be extended, given that it is proposed that on this date the Paying Agency submits three reports to the Commission: Identification system for agricultural parcels, Geo-spatial and animal-based application system and Area monitoring system, in addition to the annual performance report itself.	Indeed, the new proposed deadline of 15/2 this is the date when the annual performance report is due so reporting on QAs would be sent to COM simultaneously. Currently, the deadline to submit the LPIS QA report is 31/01. This date allows MS and COM to discover early in the year issues with the LPIS. The same principle should be maintained for the future. Having a deadline early in the year will help MS and COM to identify and address any issues related to key IACS elements in a timely manner.
Paragraph 5 This paragraph refers to a quality assessment to be carried out by MS of the data generated by the GSAA. The GSAA is a GIS system that allows the spatial declaration of agricultural parcels which are compiled each year from the area declared in the previous year of areas updated by administrative processes such as OTS and LPIS updates. The process in Malta is carried out yearly and created from LPIS data which means that in practice the LPIS QA results would be equivalent to the GSAA QA results. In view of this, all efforts should be made to maintain the GSAA QA methodology as cost effective as possible. While Malta agrees that such assessment is imperative in order to ensure the quality of the data being generated, it should be noted that the definition of rules for such assessment mentioned in Articles 67 and 72 must consider the differing implementation practices in MS of the GSAA.	As regards the assessment of GSA, JRC in cooperation with DG AGRI and in close consultation with MS will develop the methodologies taking into consideration MS needs and EU requirements.
Paragraph 5 What about the requirements for the annual assessment? What does "quality" mean in this framework? How quick should MS react to adapt their GSAA, given the limited ressources they may have (especially small MS)? We need more information.	Further rules on the Quality Assessments and the relevant reports can be specified in DA/IA. Regarding the area monitoring and GSA, JRC in cooperation with DG AGRI and in close consultation with MS will develop the methodologies. The purpose of the Quality Assessments is to give MS a methodology to check on a regular basis the functioning of their systems so that, when issues are revealed, MS can react before COM asks that remedial action is taken by means of an action plan in accordance with Article 40. Hence, the QAs have a preventative role. Appropriate remedial actions are the actions that target the deficiencies revealed by the QA. For instance, a remedial action plan that would target only QE4 while the QA reveals a non-conformity on QE1 and QE4 could not be considered appropriate. A remedial action plan is also expected to include an analysis of the QA results, a description of

	the remedial actions, expected results (targets) and a timeline of actions. Where a MS fails to submit or to implement the remedial action plan effectively and the deficiency is of a serious nature, MS may be asked by COM to set up an action plan in accordance with Article 40.
Paragraph 5 Annual assessment of the quality of the geo-spatial application system will create an additional administrative burden, it is not clear why such assessment is necessary.	COM disagrees with the view that carrying out quality assessments constitutes administrative burden. IACS is an element of the governance system that provides ex-ante assurance on CAP expenditure. The purpose of the Quality Assessments is to give MS a methodology to check on a regular basis the functioning of their systems so that, when issues are revealed, MS can react before COM asks that remedial action is taken by means of an action plan in accordance with Article 40. Hence, the QAs have a preventative role. In addition, since the Commission will not be prescribing detailed rules on how key elements of IACS should be implemented (GSA is a key element of IACS), it is important to ensure at a yearly basis that the functions and quality of the tools are regularly checked, any deficiencies revealed and appropriate remedial actions taken, where necessary.
Paragraph 5 We propose to delete this Paragraph.	Since the Commission will not be prescribing detailed rules on how key elements of IACS should be implemented (GSA is a key element of IACS), it is important to ensure at a yearly basis that the functions and quality of the tools are regularly checked, any deficiencies revealed and appropriate remedial actions taken, where necessary. Thus, this provision cannot be deleted.
Paragraph 5 For the purpose of the reporting requirement, 15 February following the calendar year in question is too short. It is proposed here on 15 April.	Currently, the deadline to submit the LPIS QA report is 31/01. This date allows MS and COM to discover early in the year issues with the LPIS. The same principle should be maintained for the future. Having a deadline early in the year will help MS and COM to identify and address any issues related to key IACS elements in a timely manner
Paragraph 5 <u>Sub-paragraph 3</u> The deadline of 15 February is too short. We propose to consider the introduction of a transition period - We propose the deadline of 15 June	Currently, the deadline to submit the LPIS QA report is 31/01. This date allows MS and COM to discover early in the year issues with the LPIS. The same principle should be maintained for the future. Having a deadline early in the year will help MS and COM to identify and address any issues related to key IACS elements in a timely manner.
Paragraph 5 There is a concern for the annual quality assessment of the “Geo-spatial and animal-based application system” and the additional administrative cost that this could produce.	Since the Commission will not be prescribing detailed rules on how key elements of IACS should be implemented (GSA is a key element of IACS), it is important to ensure at a yearly basis that the functions and quality of the tools are regularly checked, any deficiencies revealed and appropriate remedial action taken, where necessary.
Paragraph 5 Annual quality assessment of geo-spacial application system with the reporting obligation is a new requirement for the Member States, with the new financial and	COM considers that quality assessments should not be seen as an administrative and financial burden. IACS is an element of the governance system that provides ex-ante assurance on CAP expenditure. The purpose of the Quality Assessments is to give MS

administrative burden. The QA methodology is not known, and the proposed deadline for reporting may well be unrealistic.	a methodology to check on a regular basis the functioning of their systems so that, when issues are revealed, MS can react before COM asks that remedial action is taken by means of an action plan in accordance with Article 40. Hence, the QAs have a preventative role. In continuation of the current approach for LPIS QA, the main quality elements will be defined in a delegated act (empowerment requested, cf. Article 72(a)) while the detailed methodology will be described in JRC technical documents. Currently, the deadline to submit the LPIS QA report is 31/01. This date allows MS and COM to discover early in the year issues with the LPIS. The same principle should be maintained for the future. Having a deadline early in the year will help MS and COM to identify and address any issues related to key IACS elements in a timely manner.
Paragraph 5 Why is (annually) quality assessment necessary? How the quality should be assessed? Which methodology should be used? Is rotation with the other quality assessments possible (quality assessment of system x in year 1, quality assessment of system y in year 2,…) or can a good result of the quality assessment lower the need to repeat the assessment the following year?	The purpose of the Quality Assessments is to give MS a methodology to check on a regular basis the functioning of their systems so that, when issues are revealed, MS can react before COM asks that remedial action is taken by means of an action plan in accordance with Article 40. Hence, the QAs have a preventative role. In continuation of the current approach for LPIS QA, the main quality elements will be defined in a delegated act (empowerment requested, cf. Article 72(a)) while the detailed methodology will be described in JRC technical documents. Since the Commission will not be prescribing detailed rules on how key elements of IACS should be implemented (LPIS, GSA and are monitoring are key elements of IACS), it is important to ensure at a yearly basis that the functions and quality of all the tools are checked, any deficiencies revealed and appropriate remedial actions taken as soon as possible, where necessary.
Paragraph 5 Concernant les évaluations annuelles à effectuer par les Etats membres prévues aux articles 66,67 et 68, il ne paraît pas acceptable que leur contenu soit défini dans des actes délégués compte tenu de la charge administrative que cela peut générer. Par ailleurs, l'échéance du 15 février n'est pas réaliste ; il est proposé de se référer à l'exercice financier plutôt que l'année civile. Par exemple, pour les aides de l'année 2022, payées sur l'exercice financier 2023, la date limite de transmission serait le 15 février 2024.	COM is against defining these elements in the basic act. An empowerment for a delegated act is foreseen. The content of the LPIS QA is currently defined in the DA. Concerning the deadline and the proposal to link the assessment to the financial year instead of the calendar year, COM is against such a proposal. It is important to discover asap issues with key elements of IACS (LPIS, GSA and area monitoring); in the current period, the timing has not been challenged and has proven appropriate. Hence, the current approach should be maintained (analysis for year N to be submitted in year N+1).
Paragraph 5 Regarding the annual quality assessment, more details are requested: - on the scope of these assessments; - on action plans and corrective actions in cases of evidence of system deficiencies. The proposal says: "Member States shall annually assess the quality of the identification	The purpose of the Quality Assessments is to give MS a methodology to check on a regular basis the functioning of their systems so that, when issues are revealed, MS can react before COM asks that remedial action is taken by means of an action plan in accordance with Article 40. Hence, the QAs have a preventative role. Appropriate remedial actions are the actions that target the deficiencies revealed by the QA. For

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?	instance, a remedial action plan that would target only QE4 while the QA reveals a non-conformity on QE1 and QE4 could not be considered appropriate. An appropriate remedial action plan is also expected to include an analysis of the QA results, a description of the remedial actions, expected results (targets) and a timeline of implementation of the remedial actions. In continuation of the current approach for LPIS QA, the main quality elements will be defined in a delegated act (empowerment requested, cf. Article 72(a)) while the detailed methodology will be described in JRC technical documents. Only where a MS fails to submit or to implement the remedial action plan effectively and the deficiency is of a serious nature, MS may be asked by COM to set up an action plan in accordance with Article 40. Concerning the setting up of action plans in accordance with Article 40, implementing acts on further rules on the elements and the procedure for setting up the action plans may be adopted by the COM. Finally, only where a MS fails to submit, to implement the action plan or of that action plan is clearly insufficient to remedy the situation, COM may proceed to suspension of monthly payments.
Paragraph 4 Clarifications are needed as regards the design of a claimless system for area-based interventions.	The claimless system will be an option for the MS that they can develop by integrating official administrative databases/data in order for the administration to establish automatically the aids that a beneficiary is entitled to, and simplify to the maximum extent possible the work for the beneficiary. Several MS indicated their wish to develop IT applications in order for the beneficiary to claim CAP aid in a simpler and less time-consuming way. Hence, by defining the claimless application system, COM aimed at giving legal certainty to those MS who wished to go further than the existing pre-filled application form. The way it will be developed/used and for which interventions is up to the MS. For clarifications on the claimless application system for area-based interventions, please see COM's non-paper.
Paragraph 4 Claimless system is currently used in Latvia in regards to animal support. Paragraph 4 provides for the possibility of wider application of the system, so it would require the Commission's explanation how it proposes the application of the claimless system for area payments.	The claimless system will be an option for the MS that they can develop by integrating official administrative databases/data in order for the administration to establish automatically the aids that a beneficiary is entitled to, and simplify to the maximum extent possible the work for the beneficiary. Several MS indicated their wish to develop IT applications in order for the beneficiary to claim CAP aid in a simpler and less time-consuming way. Hence, by defining the claimless application system, COM aimed at giving legal certainty to those MS who wished to go further than the existing pre-filled application form. The way it will be developed/used and for which interventions is up to the MS.

	For clarifications on the claimless application system for area-based interventions, please see COM's non-paper.
Paragraph 4 Further clarification is necessary in relation to the claimless system. First of all, it has to remain optional (as the Commission confirmed during the WP HAQ of 19-20th September). Secondly, a number of practical questions arise concerning the substance of computerized databases. E.g.: What if the database is not up-to-date or inappropriate? It has to be ensured that the farmer takes full responsibility for its application. Claimless system is not operable in all Member States, since the proper handling of deviations in databases for animals is not resolved.	As stated in Art.64(4) of the proposed HZR, MS may decide use a claimless system; hence, the claimless system is as an option for the MS that they can develop by integrating official administrative databases/data in order for the administration to establish automatically the aids that a beneficiary is entitled to, and simplify to the maximum extent possible the work for the beneficiary. Several MS indicated their wish to develop IT applications in order for the beneficiary to claim CAP aid in a simpler and less time-consuming way. Hence, by defining the claimless application system, COM aimed at giving legal certainty to those MS who wished to go further than the existing pre-filled application form. The way it will be developed/used and for which interventions is up to the MS. The application of a claimless presupposes that the databases used are reliable, up-to-date and appropriate. For clarifications on the claimless application system for area-based interventions, please see COM's non-paper.
Paragraph 4 It should be up to the Member States to decide to implement a claimless system.	As stated in Art.64(4) of the proposed HZR, MS may decide use a claimless system; hence, it is as an option for the MS.
Paragraph 4 Related to "claimless system": which elements does this system contain? 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?	The claimless system will be an option for the MS that they can develop by integrating official administrative databases/data in order for the administration to establish automatically the aids that a beneficiary is entitled to, and simplify to the maximum extent possible the work for the beneficiary. Several MS indicated their wish to develop IT applications in order for the beneficiary to claim CAP aid in a simpler and less time-consuming way. Hence, by defining the claimless application system, COM aimed at giving legal certainty to those MS who wished to go further than the existing pre-filled application form. The way it will be developed/used and for which interventions is up to the MS. For the first year of implementation of the CAP strategic plan, data from existing databases should be used for the claimless sytem. For clarifications on the claimless application system for area-based interventions, please see COM's non-paper.
Paragraph 3 The wording of this paragraph should be modified, adding the idea that the prefilled forms should be based on the data of the application and the result of the controls of the previous year.	COM takes note of the suggestion; however, it does not consider it necessary to specify this in legislation since significant subsidiarity on the GSA/ animal-based applications is foreseen. COM would expect though that all relevant and up-to-date information should be included in the pre-filled application in order to facilitate farmer's work. Hence, MS may decide to include the results of checks carried out in

	the previous year in the pre-filled application.
Paragraph 3 What is understood by "any other relevant public database"?	With regard to the pre-filled application, data required by the Paying Agency for this purpose will be imported in the application from other IACS databases (e.g. LPIS, area monitoring system, payment entitlements system, register of beneficiaries etc.) and other administrative records (e.g. income declarations, data from business registers etc). COM's intention is to give MS a legal basis for integrating data from other available administrative registers.
Paragraph 3 Why is claimless system related to pre-filled applications? Why are those needed if the farmer has up to date information from the database or from the communication system offered by the Member State?	According to Art. 67 of the proposed HZR, MS shall provide the beneficiaries with pre-filled applications, with the most updated relevant data for the aid claim. COM, by introducing the claimless system as an option for the MS, intended to take the pre-filled application a step further in order to simplify even more the work for the beneficiary. The claimless system will be an option for the MS that they can develop by integrating official administrative databases/data in order for the administration to establish automatically the aids that a beneficiary is entitled to, and simplify to the maximum extent possible the work for the beneficiary. Several MS indicated their wish to develop IT applications in order for the beneficiary to claim CAP aid in a simpler and less time-consuming way. Hence, by defining the claimless application system, COM aimed at giving legal certainty to those MS who wished to go further than the existing pre-filled application form. The way it will be developed/used and for which interventions is up to the MS. For clarifications on the claimless application system for area-based interventions, please see COM's non-paper.
Paragraph 2 Can the application be unique - plant and livestock sectors?	Art. 67 of the proposed HZR provides only for the main functionalities of how the GSA/ animal-based application should be developed (pre-filled electronic application) while everything else is left to MS choice (single or multiple applications, application dates etc.).
Paragraph 1 We understand that the implementation of monitoring needs a paperless claim procedure. What about farmers who are not able to make an electronic claim? May we still send paper forms to these farmers (as it is the case today)?	Art. 67 of the proposed HZR provides only for the main functionalities of how the GSA/ animal-based application should be developed (pre-filled electronic application) while everything else is left to MS choice (single or multiple applications, application dates etc.). According to the definition (Art. 63(4)(a)), GSA means an electronic application form; thus, by default it should be electronic, meaning that paper applications can not be the default method of submitting applications. This approach builds on the full implementation of the GSAA in the current period.
Paragraph 1	Art. 67 of the proposed HZR provides only for the main functionalities of how the

Do these rules imply that paper applications are not possible in the future? Is this the right interpretation?	GSA/ animal-based application should be developed (pre-filled electronic application) while everything else is left to MS choice (single or multiple applications, application dates etc.) According to the definition (Art. 63(4)(a)), GSA means an electronic application form; thus, by default it should be electronic, meaning that paper applications should not be the default method of submitting applications. This approach builds on the full implementation of the GSAA in the current period.
In relation to this article, the Commission is asked to clarify if the concept of a single application disappears for this period	Significant subsidiarity on the GSA/ animal-based applications is foreseen. The intention was to give only the main functionalities of how the GSA/ animal-based application should be developed (pre-filled electronic application) while everything else is left to MS choice (single or multiple applications, application dates etc.). MS may therefore maintain the single application.
The geo-spatial application system and animal-based application system can be two different systems. Therefore the title of this article should be adjusted to "geo-spatial application system and animal-based application system" or at least it should be clear that not a single application system is meant.	Significant subsidiarity on the GSA/ animal-based applications is foreseen. The intention was to give only the main functionalities of how the GSA/ animal-based application should be developed (pre-filled electronic application) while everything else is left to MS choice (single or multiple applications, application dates etc.).
Articles 66 to 73 should be deleted entirely. See general comment under Article 63.	The proposal to delete most articles on IACS cannot be accepted. Defining common elements of IACS, an element of the governance system, and providing COM with empowerments to further define features of key elements ensures a level playing field across EU MS in the administration and control of CAP expenditure. IACS is a known and well-functioning system for administering CAP payments (area- and animal based) and has been successful in keeping the error rates comparatively low; hence, COM wishes to continue IACS. The GSA, as a key element of IACS, is therefore part of the required governance system that needs to be in place throughout the period of implementation of the CAP strategic plans in the post-2020 period.
Article 68 Area monitoring system	
Paragraph 2 Since the controls in SWE are finished late in the year, it will be a too short time to complete and compile the results by the 15th of February. We would like to have more time until the assessment report would be submitted to the COM. Quality assessments are important to evaluate functions of systems. However, there must be a sense of cost-benefit of any additional measures that are introduced in the CAP. The Quality assessments require a lot of work for the administration. If the Quality assessment is introduced in order to replace some of the auditing, SWE is positive to the	IACS is an element of the governance system that provides ex-ante assurance on CAP expenditure. The purpose of the Quality Assessments is to give MS a methodology to check on a regular basis the functioning of their systems so that, when issues are revealed, MS can react before COM asks for remedial action to be taken by means of an action plan in accordance with Article 40. Hence, Hence, the QAs have a preventative role and they have to be considered as tools for the MS to improve their systems. Area monitoring together with LPIS and GSA are key elements of IACS and since the

change of principle. However, if the Quality assessment is added as an extra layer to evaluation and reporting, we encourage the COM to remove the request.	Commission will not be prescribing detailed rules on how these should be implemented, it is important to ensure at a yearly basis that the functions and quality of all the tools are regularly checked, any deficiencies revealed and appropriate remedial action taken, where necessary. Regarding the deadline of 15 th of February, t he current deadline to submit the LPIS QA results is 31 January of the year to which the analysis refers to (31 January of the year following the calendar year concerned), hence the proposed deadline is already extended compared to the current one. The purpose of having a deadline early in the year is to help the MS to identify and address any issues related to IACS timely.
Paragraph 2 Area monitoring can be considered a continuation of controls with remote sensing. Over the last 25 years the Member States have carried out these checks by remote sensing reasonably well without the need for this new element of quality assessment that poses an additional administrative burden for the Member States. The cost-benefit ratio does not justify this measure. Thus it is proposed to delete this provision from the Regulation. Technically, it must be added that the monitoring methodology itself is still very immature. To this day we do not have the final specific common techniques for monitoring provided by the JRC. Therefore, it is not realistic that there may be an adequate methodology for quality control of a process that has yet to be defined. And a final comment. Monitoring is a continuous process that in principle will cover the entire calendar year. Therefore, if the agricultural activities object of monitoring a given campaign ends on December 31st, and we must add several additional follow-up activities, it is impossible to provide results of a theoretical quality assessment before February 15th.	COM disagrees that carrying out quality assessments constitutes administrative burden. IACS is an element of the governance system that provides ex-ante assurance on CAP expenditure. The purpose of the Quality Assessments is to give MS a methodology to check on a regular basis the functioning of their systems so that, when issues are revealed, MS can react before COM asks for remedial action to be taken by means of an action plan in accordance with Article 40. Hence, the QAs have a preventative role which, if used to improve the system, fully justifies the related costs. The QA methodology will be developed to test the functions that the area monitoring system will perform in the IACS of the future. While the standards of quality (conformance thresholds) may indeed change in view of developments of the monitoring system, the general purpose of monitoring in the IACS system is known and the development of the QA methodology can start relatively soon. COM takes note of the comment on the timing of the QA for area monitoring.
Paragraph 2 This is an additional requirement not provided by the current legislation. It requires enforcement rules, additional costs for the administration and we do not have the certainty that it will be implemented on time. We request exclusion or transition period. The date of February 15 must be deferred at the earliest on 1 June. The timing of quality control is short and overlaps with LPIS QA and with the quality control requested by article 67 paragraph 5.	Since the Commission will not be prescribing detailed rules on how key elements of IACS should be implemented (LPIS, GSA and are monitoring are key elements of IACS), it is important to ensure at a yearly basis that the functions and quality of all the tools are regularly checked, any deficiencies revealed and appropriate remedial action taken, where necessary. Regarding the deadline of 15 th of February, t he current deadline to submit the LPIS QA results is 31 January of the year to which the analysis refers to (31 January of the year following the calendar year concerned), hence the proposed deadline is already extended compared to the current one. The purpose of having a deadline early in the year is to help the MS to identify and address any issues related to IACS timely.
Paragraph 2 The deadline of 15 February should be extended, given that it is proposed that on this	T he current deadline to submit the LPIS QA results is 31 January of the year to which the analysis refers to (31 January of the year following the calendar year concerned),

date the Paying Agency submits three reports to the Commission: Identification system for agricultural parcels, Geo-spatial and animal-based application system and Area monitoring system, in addition to the annual performance report itself.	hence the proposed deadline is already extended compared to the current one. The purpose of having a deadline early in the year is to help the MS to identify and address any issues related to IACS timely. The QAs reports will be indeed part of the package sent to the COM.
Paragraph 2 We have the same request as under paragraph 5 of article 67. Furthermore, we do not understand the deadline of 15/02. It seems too early, if it is to be in the calendar year following the claim year.	Regarding the deadline of 15 th of February, t he current deadline to submit the LPIS QA results is 31 January of the year to which the analysis refers to (31 January of the year following the calendar year concerned), hence the proposed deadline is already extended compared to the current one. The purpose of having a deadline early in the year is to help the MS to identify and address any issues related to IACS timely.
Paragraph 2 Paragraph 2 provides for an annual assessment of the the quality of the area monitoring system - more detailed explanation and information is needed on how Member States shall assess the area monitoring system. Is it supposed to be a comprehensive audit? Does Commission plan to provide an elaborated guidance for Member States to follow during the system assessment? We also are quite skeptical regarding the requirement for annual system quality assessment as it will create an unnecessary administrative burden.	COM strongly disagrees that carrying out quality assessments constitutes unnecessary administrative burden. IACS is an element of the governance system that provides ex-ante assurance on CAP expenditure. The purpose of the Quality Assessments is to give MS a methodology to check on a regular basis the functioning of their systems so that, when issues are revealed, MS can react before COM asks for remedial action to be taken by means of an action plan in accordance with Article 40. Hence, the QAs have a preventative role. In addition, since the Commission will not be prescribing detailed rules on how key elements of IACS should be implemented (LPIS, GSA and area monitoring are key elements of IACS), it is important to ensure at a yearly basis that the functions and quality of all the tools are regularly checked, any deficiencies revealed and appropriate remedial action taken, where necessary. COM wants to maintain the status quo concerning the QA methodologies: the main quality elements will be defined in a delegated act (empowerment requested, cf. Article 72(a)) while the detailed methodology will be described in JRC technical documents.
Paragraph 2 We propose to delete this Paragraph.	Since the Commission will not be prescribing detailed rules on how key elements of IACS should be implemented (LPIS, GSA and are monitoring are key elements of IACS), it is important to ensure at a yearly basis that the functions and quality of all the tools are regularly checked, any deficiencies revealed and appropriate remedial action taken, where necessary. Hence, the QA of the area monitoring, but also the ones on LPIS and GSA, should be compulsory.
Paragraph 2 The reporting obligations provided for in Articles 66 to 68 shall be too short in respect of 15 February following the calendar year in question. It is proposed here on 15 April.	The current deadline to submit the LPIS QA results is 31 January of the year to which the analysis refers to (31 January of the year following the calendar year concerned), hence the proposed deadline is already extended compared to the current one. The purpose of having a deadline early in the year is to help the MS to identify and address any issues related to IACS timely.

Paragraph 2 Sub-paragraph 3 The deadline of 15 February is too short. We propose to consider the introduction of a transition period We propose the deadline of 15 June	Regarding the deadline of 15 th of February, the current deadline to submit the LPIS QA results is 31 January of the year to which the analysis refers to (31 January of the year following the calendar year concerned), hence the proposed deadline is already extended compared to the current one. The purpose of having a deadline early in the year is to help the MS to identify and address any issues related to IACS timely.
Paragraph 2 La France signale une erreur de traduction dans la version française : les termes « système de demande géospatialisée » doivent être remplacés par « système de suivi des surfaces ». Concernant les évaluations annuelles à effectuer par les Etats membres prévues aux articles 66,67 et 68, il ne paraît pas acceptable que leur contenu soit défini dans des actes délégués compte tenu de la charge administrative que cela peut générer. Par ailleurs, l'échéance du 15 février n'est pas réaliste ; il est proposé de se référer à l'exercice financier plutôt que l'année civile. Par exemple, pour les aides de l'année 2022, payées sur l'exercice financier 2023, la date limite de transmission serait le 15 février 2024.	The Commission thanks the FR delegation for the correction. COM is against defining these elements in the basic act. An empowerment for a delegated act is foreseen. The content of the LPIS QA is currently defined in the DA. Concerning the proposal to link the quality assessments to the financial year instead of the calendar year, COM is against such a proposal. It is important to discover asap issues with key elements of IACS (LPIS, GSA and area monitoring); in the current period, the timing has not been challenged and has proven appropriate. Hence, the current approach should be maintained (analysis for year N to be submitted in year N+1).
Paragraph 2 Why is (annually) quality assessement necessary? How the quality should be assessed? Which methodology should be used? Is rotation with the other quality assessments possible (quality assessment of system x in year 1, quality assessment of system y in year 2,…) or can a good result of the quality assessment lower the need to repeat the assessment the following year? Depending on the expectations of the Commission and the obligation to assess several systems the date of 15 February should be reconsidered (administrative burden). Language – French version: "système de demande géospatialisée" should be "un système de suivi des surfaces" or "un système de surveillance des surfaces" (cfr. remark article 63(4))	Since the Commission will not be prescribing detailed rules on how key elements of IACS should be implemented (LPIS, GSA and area monitoring are key elements of IACS), it is important to ensure at a yearly basis that the functions and quality of all the tools are regularly checked, any deficiencies revealed and appropriate remedial action taken, where necessary. Hence, QAs of all tools shall be made every year; obtaining good results for a certain year does not exclude the need for a QA for the following year. COM wants to maintain the status quo concerning the QA methodologies: the main quality elements will be defined in a delegated act (empowerment requested, cf. Article 72(a)) while the detailed methodology will be described in JRC technical documents. Regarding the deadline of 15 th of February, the current deadline to submit the LPIS QA results is 31 January of the year to which the analysis refers to (31 January of the year following the calendar year concerned), hence the proposed deadline is already extended compared to the current one. The purpose of having a deadline early in the year is to help the MS to identify and address any issues related to IACS timely. COM takes note of the drafting suggestions in the French version.
Paragraph 2 Regarding the annual quality assessment, more details are requested: - on the scope of these assessments; - on action plans and corrective actions in cases of evidence of system deficiencies.	Since the Commission will not be prescribing detailed rules on how key elements of IACS should be implemented (Area Monitoring is a key element of IACS), it is important to ensure at a yearly basis that the functions and quality of the tools are regularly checked, any deficiencies revealed and appropriate remedial action taken,

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?	where necessary. COM wants to maintain the status quo concerning the QA methodologies: the main quality elements will be defined in a delegated act (empowerment requested, cf. Article 72(a)) while the detailed methodology will be described in JRC technical documents. The purpose of the Quality Assessments is to give MS a methodology to check on a regular basis the functioning of their systems so that, when issues are revealed, MS can react before COM asks that remedial action is taken by means of an action plan in accordance with Article 40. Hence, the QAs have a preventative role. Appropriate remedial actions are the actions that target the deficiencies revealed by the QA. A remedial action plan is also expected to include an analysis of the QA results, a description of the remedial actions, expected results (targets) and a timeline of actions. Concerning the setting up of action plans in accordance with Article 40, implementing acts on further rules on the elements and the procedure for setting up the action plans may be adopted by the COM. Only where a MS fails to submit, to implement the action plan or of that action plan is clearly insufficient to remedy the situation, COM may proceed to suspension of monthly payments. In case of serious deficiencies in the functioning of governance systems, the MS will be asked by the COM to implement the necessary remedial actions according to an action plan providing clear progress indicators. The action plan will be established in consultation with the COM. IAs on further rules and procedure of the action plan may be adopted by the COM. If the MS fails to submit/ implement the action plan or it is insufficient, COM may then proceed to suspension of monthly payments. For Article 40 action plans (deficiencies in the governance structures) it is not considered feasible to set out, at basic act level, exhaustive details of which (serious) deficiencies would lead to the setting up of action plans. This is also not the case under the current rules.
Paragraph 1 We are optimistic about the new system but believe that MS need to decide when it is possible to use it. It should therefore be voluntary for MS.	Area monitoring should be compulsory from the beginning of the programming period to ensure that: - all MS advance equally in their use of technologies (modernisation is a key objective of the future CAP); - data necessary for performance reporting is created efficiently and in an automatised way; - assurance on CAP expenditure is provided through reliable data on reported output and result indicators; - all MS create a system that helps beneficiaries to comply with their obligations and

	receive CAP support with minimum disruption to their farming activities instead of focusing on achieving performance by strict controls and penalties. All this ensures a level playing field for farmers in the EU. In sum, COM is strongly opposed to making the area monitoring system optional.
Paragraph 1 In Slovenia almost 50% of the agricultural parcels is smaller than 0,5 ha (16% of the total agricultural area in Slovenia) and nearly 33% of parcels is smaller than 0,3 ha (7% of total agricultural area). On these areas, additional checks of eligibility will need to be performed (follow up actions). Are there any additional options for financial support for establishment and implementation of the monitoring, such as those defined in the article 22 for example? In Slovenia, some agricultural practices where monitoring system cannot be used are currently supported within Rural Development measures. Verification of eligibility will require different approach in such cases. Can be assumed that where Rural Development measure requirements cannot be monitored 5% control sample approach should be kept or 100% checks are required also on such measures?	It should be clarified that the area monitoring system for the next CAP period is different from the system introduced with the Implementing Regulation (EU) No 2018/746, where it is clearly defined as a control system ("Checks by monitoring"). The area monitoring system referred to in Article 68 of the proposed HZR is not a control requirement. As such, it does not necessarily have to be used for checks in the context of the IACS control and penalties system (cf. Article 70); MS are free to design their own control system and adapt the design of penalties to the specific interventions chosen by the MS/ region as well as national/regional specificities and needs. As regards small parcels, COM considers the issue of 'monitorability' of small or irregular parcels a technical issue which will be overcome in the near future, certainly before the start of the next programming period. In addition, COM will finance complementary satellite data, i.e. data complementary to the freely available Copernicus Sentinels data, so as to ensure a proper functioning of the monitoring system (Articles 7(b) and 22 of the HZR proposal). This may include financing images for areas where Sentinels data will not provide reliable information (e.g. small parcels).
Paragraph 1 Member States shall establish and operate an area monitoring system. It is difficult to implement. It should be determined from the outset what methodologies will be applied if agricultural plots with small areas can not be covered by monitoring. If these involve additional field checks, the administrative costs will be very high. In Romania, a significant number of agricultural parcels have areas of less than 0.5 ha, surfaces that can not be interpreted using the verification techniques proposed so far, due to the fact that they are less than 7-10 meters wide. We also request a transition period of 1-2 years for implementation at national level of the specific controls required by Art. 68.	It should be clarified that the area monitoring system for the next CAP period is different from the system introduced with the Implementing Regulation (EU) No 2018/746, where it is clearly defined as a control system ("Checks by monitoring"). The area monitoring system referred to in Article 68 of the proposed HZR is not a control requirement. As such, it does not necessarily have to be used for checks in the context of the IACS control and penalties system (cf. Article 70); MS are free to design their own control system and adapt the design of penalties to the specific interventions chosen by the MS/ region as well as national/regional specificities and needs. As regards small parcels, COM considers the issue of 'monitorability' of small or irregular parcels a technical issue which will be overcome in the near future, certainly before the start of the next programming period. In addition, COM will finance complementary satellite data, i.e. data complementary to the freely available Copernicus Sentinels data, so as to ensure a proper functioning of the monitoring system (Articles 7(b) and 22 of the HZR proposal). This may include

	financing images for areas where Sentinels data will not provide reliable information (e.g. small parcels). COM is not in favour of the proposal for a transitional period for area monitoring. Namely, allowing for a transition period would create differences in the level of digitisation of administration/ farmers between MS, which would also impact negatively on the efficiency of administering the CAP and thus indirectly creating issues with the competitiveness of the sector.
Paragraph 1 See comments article 63, Paragraph 4: Subparagraph b) - Clarification is required on which type of agricultural activities and practices are included under this monitoring system. We have doubts as to whether such a system can monitor the vast majority of environmental management commitments, including many of the conditionality obligations, which can only be monitored through on-the-spot physical checks. On the other hand the JRC document " *Discussion document on the introduction of monitoring to substitute OTSC"* (page 31), states that it´s not possible to monitor agricultural parcels with areas below 0.5 ha. In mainland Portugal, more than 60% of the agricultural parcels have areas below 0.5 ha (this proportion is even higher in the Outermost Regions). Clarification is required on how the Commission sees the implementation of such system in this type of small plots. In this context, if the alternative solution to the use of satellite imagery in these situations is 100% on-the-spot physical checks, the implementation of the Area monitoring system should be reassessed, given the high control costs associated. It should be recalled that control costs currently derive from a sample consisting of only 5% of the beneficiaries. Therefore, Portugal considers that the implementation of the Area monitoring system should be optional for Member States, or else a mixed system should be implemented where situations that cannot be monitored using satellite imagery may be so through sampling controlled on the spot as is currently the case.	COM is strongly opposed to making the area monitoring system optional. Freely available Earth Observation data captured by the Copernicus Sentinel satellites and other innovative technologies provide significant information on agricultural activities across the EU. Using these technologies will modernise and improve the administration, monitoring and overall operation of the CAP and have multiple benefits for farmers and Member States' administrations. Area monitoring should be compulsory from the beginning of the programming period to ensure that: - all MS advance equally in their use of technologies (modernisation is a key objective of the future CAP); - data necessary for performance reporting is created efficiently and in an automatised way; - assurance on CAP expenditure is provided through reliable data on reported output and result indicators; - all MS create a system that helps beneficiaries to comply with their obligations and receive CAP support with minimum disruption to their farming activities instead of focusing on achieving performance by strict controls and penalties. Please see as well COM's non-paper on the purpose and functions of monitoring in post-2020. Furthermore, COM considers the issue of 'monitorability' of small or irregular parcels a technical issue which will be overcome in the near future, certainly before the start of the next programming period. COM is aware that not all obligations stemming from conditionality or eligibility conditions defined by the MS in their strategic plans will be monitorable, as various environmental management commitments cannot be verified with this system. The current legal provisions acknowledge that already (cf. Article 40a(1)(a) of R.

	809/2014). Finally, COM considers that most aspects relevant to GAECs can be observed using monitoring techniques: stubble burning, crop rotation, ploughing up of protected grasslands, etc. Others can be followed by using a combination of IACS data (LPIS, monitoring, farmers declarations): buffer strips along watercourses, non-productive areas, retention of landscape features etc. COM will strongly support MS in developing the area monitoring system through technical and legal work. Please note that further rules on the area monitoring system may be developed in implementing acts.
Paragraph 1 It is provided that Member States shall set up and operate an area monitoring system, although no additional information is provided on the elements to be included in the monitoring system as well as on which payments this system shall be applied mandatory. Article also should provide a solution for monitoring of small fields.	it should be clarified that the area monitoring system for the next CAP period is different from the system introduced with the Implementing Regulation (EU) No 2018/746, where it is clearly defined as a control system ("Checks by monitoring"). The area monitoring in the future will be a system of monitoring agricultural activities and it may be used for checks on eligibility conditions or not. MS are free to design their own control system and adapt the design of penalties to the specific interventions chosen by the MS/ region as well as national/regional specificities and needs (cf; Art. 70 of the proposed HZR); hence area monitoring may be part of the system if the MS decides so. Please see as well COM's non-paper on the purpose and functions of the area monitoring system in post-2020. Regarding the issue of 'monitorability' of small or irregular parcels, COM consider it as a technical issue which will be overcome in the near future, certainly before the start of the next programming period. In addition, COM will finance though complementary satellite data, i.e. data complementary to the freely available Copernicus Sentinels data, so as to ensure a proper functioning of the monitoring system (Articles 7(b) and 22 of the HZR proposal). This may include financing images for areas where Sentinels data will not provide reliable information (e.g. small parcels). Further information on basic features and rules on the area monitoring system may be specified in IA as provided in Art. 73 of he proposed HZR.
Paragraph 1 The introduction of the area monitoring is very complex/costly and is not yet technically mature. Area monitoring should therefore be optional for MS. In addition, the question arises as to whether the area monitoring system is only to be used to report on indicators under the strategic plans or whether it should also be included – either as an	Freely available Earth Observation data captured by the Copernicus Sentinel satellites and other innovative technologies provide significant information on agricultural activities across the EU. Using these technologies will modernise and improve the administration, monitoring and overall operation of the CAP and have multiple benefits for farmers and Member States' administrations.

option or else as an obligation – in the control and sanction system to be set up by the MS. This should be clarified. It should also be optional for the control and sanction system.	COM would like to clarify that the area monitoring system in the proposed HZR should be distinguished from the "checks by monitoring" in the current legislation (Ar. 40a, R.809/2014). The area monitoring system in the future will be a system of monitoring agricultural activities, which may be used for checks on eligibility conditions or not, depending on the decision of the MS. COM will strongly support MS in developing the area monitoring system through technical and legal work. Please note that further rules on the area monitoring system may be developed in implementing acts. Area monitoring should be compulsory from the beginning of the programming period to ensure that: - all MS advance equally in their use of technologies (modernisation is a key objective of the future CAP); - data necessary for performance reporting is created efficiently and in an automatised way; - assurance on CAP expenditure is provided through reliable data on reported output and result indicators; - all MS create a system that helps beneficiaries to comply with their obligations and receive CAP support with minimum disruption to their farming activities instead of focusing on achieving performance by strict controls and penalties. All this ensures a level playing field for farmers in the EU. In sum, COM is strongly opposed to making the area monitoring system optional. Allowing for a transition period would create differences in the level of digitisation of administration/ farmers between MS, which would also impact negatively on the efficiency of administering the CAP and thus indirectly creating issues with the competitiveness of the sector. COM is thus not in favour of a transition period. Please see as well COM's non-paper on the purpose and functions of monitoring in post-2020.
Paragraph 1 A three year transitional Period for the implementation of the Area monitoring system is needed.	COM is not in favour of the proposal for a transitional period for area monitoring. Namely, allowing for a transition period would create differences in the level of digitisation of administration/ farmers between MS, which would also impact negatively on the efficiency of administering the CAP and thus indirectly creating issues with the competitiveness of the sector.

Paragraph 1 We express our concern because of a possible increase of administrative burden that this provision may cause. See also comment on Article 65. Seeing the complexity of the new requirement, the transitional period prior to its full function might be envisaged.	Freely available Earth Observation data captured by the Copernicus Sentinel satellites and other innovative technologies provide significant information on agricultural activities across the EU. Using these technologies will modernise and improve the administration, monitoring and overall operation of the CAP and have multiple benefits for farmers and Member States' administrations. One of these is to provide information necessary for reporting in an efficient and automatised way. Hence, burden would be reduced. COM is not in favour of the proposal for a transitional period for area monitoring. Namely, allowing for a transition period would create differences in the level of digitisation of administration/ farmers between MS, which would also impact negatively on the efficiency of administering the CAP and thus indirectly creating issues with the competitiveness of the sector. Please see as well COM's non-paper on the purpose and functions of the area monitoring system in post-2020.
Paragra ph 1 Is control by monitoring an obligation from 1 January 2021 onwards? Does the Commission expect that all the measures and interventions can be controlled by monitoring? Does the Commission expect that controls on conditionality will/can be done by area monitoring? What about the maintenance of grassland? Depending on the expectations of the Commission a transition period is necessary.	Setting up an area monitoring system is obligatory as of the date of implementation of the new HZR (currently 1 January 2021). However, it should be clarified that the area monitoring system for the next CAP period is different from the system introduced with the Implementing Regulation (EU) No 2018/746, where it is clearly defined as a control system ("Checks by monitoring"). The area monitoring in the future will be a system of monitoring agricultural activities and it may be used for checks on eligibility conditions or not. MS are free to design their own control system and adapt the design of penalties to the specific interventions chosen by the MS/ region as well as national/regional specificities and needs (cf; Art. 70 of the proposed HZR); hence area monitoring may be part of the system if the MS decides so. COM is not in favour the proposal for a transitional period for area monitoring. Namely, allowing for a transition period would create differences in the level of digitisation of administration/ farmers between MS, which would also impact negatively on the efficiency of administering the CAP and thus indirectly creating issues with the competitiveness of the sector. As regards conditionality, the approach is the same as it was for the cross-compliance; given its character (not linked to eligibility and including SMRs), MS can use IACS for the control of conditionality to the extent they consider useful (efficiency considerations), as long as checks are effective. Please note that COM considers most of the GAECs monitorable, including maintenance of grassland. Please see as well COM's non-paper on the purpose and functions of the area monitoring system in post-2020. At this stage it is not however possible to give

	detailed specifications of the requirements. If necessary, these will be further defined in an implementing act (cf. Article 73(b) of the proposed HZR).
Paragraph 1 Denmark supports the introduction of an area monitoring system. However, it should be further clarified in the text whether the use of the area monitoring system is compulsory in relation to control of area related interventions and/or if the Member State can choose to use the system for other purposes too. If the use of area monitoring system is compulsory for area related interventions there is a need for flexibility and a transition-period for the monitoring of Eco-Schemes and area based schemes under Pillar II. If the use of the area monitoring system is not compulsory, the provisions regulating the IACS should directly provide the legal framework to secure systematic checks by other means than monitoring. This is necessary in order to have legal certainty for the IACS framework. The rule about an introduction of an area monitoring system is not very detailed. Therefore further information is needed about the technical requirements that the Member State must comply with when using an area monitoring system.	Taking into account the subsidiarity given to MS (Art.70 of the proposed HZR), MS are free to design their own control system and adapt the design of penalties to the specific interventions chosen by the MS/ region as well as national/regional specificities and needs; hence, the area monitoring does not necessarily have to be used for checks in the context of the IACS control and penalties system. COM is not in favour the proposal for a transitional period for area monitoring. Namely, allowing for a transition period would create differences in the level of digitisation of administration/ farmers between MS, which would also impact negatively on the efficiency of administering the CAP and thus indirectly creating issues with the competitiveness of the sector. Please see as well COM's non-paper on the purpose and functions of the area monitoring system in post-2020. At this stage it is not however possible to give detailed specifications of the requirements. If necessary, these will be further defined in an implementing act (cf. Article 73(b) of the proposed HZR).
The Commission must clarify and specify the purpose of the area monitoring in the text of the Regulation, as indicated in the presentation made in the working group of the council of September 19, 2018: "It may be used for controls" + "Purpose: policy monitoring (agri-env-clima)"	The area monitoring system for the next CAP period is different from the system introduced with the Implementing Regulation (EU) No 2018/746, where it is clearly defined as a control system ("Checks by monitoring"). The area monitoring in the future will be a system of monitoring agricultural activities and it may be used for checks on eligibility conditions or not. Please see as well COM's non-paper on the purpose and functions of the area monitoring system in post-2020.
Is the area monitoring system to be understood as the monitoring that was introduced into current system by Implementing Regulation (EU) No 2018/746? We have serious reservations against the compulsory introduction of monitoring into IACS. Currently, the monitoring system is voluntary, primarily due to the numerous administrative, technical, financial and legislative challenges. We are certain that this tool should be kept on a voluntary basis. We should also draw from our previous experience with the GSAA – it was very problematic to set it up and in some cases even derogations from its full introduction were needed.	The area monitoring system for the next CAP period is different from the system introduced with the Implementing Regulation (EU) No 2018/746, where it is clearly defined as a control system ("Checks by monitoring"). As such, it does not necessarily have to be used for checks in the context of the IACS control and penalties system (cf. Article 70); MS are free to design their own control system and adapt the design of penalties to the specific interventions chosen by the MS/ region as well as national/regional specificities and needs.
Poland is open to the possibility of using new technologies to implement and monitor support instruments under the CAP, including the proposed implementation of the monitoring system of agricultural land based on Sentinel satellites. However, it should be emphasized that in order to fully benefit from this proposal, it is necessary to develop	With a view to modernising IACS and containing its costs, COM would support MS in developing the monitoring system so as to serve the dual purpose of policy monitoring and controls, i.e. performance monitoring and compliance/ eligibility checks respectively. COM will strongly support MS through technical and legal work.

solutions at the EU level that ensure its proper implementation across the EU, taking into account the specific conditions characterizing the structure of agriculture in respective Member States. Some technical conditions of Sentinel products, in particular spatial resolution, hinder the use of this technology, inter alia for agricultural parcels that are small, narrow or irregular in shape. Therefore, it is important to develop adequate solutions in advance in relation to such plots.	COM will also finance complementary satellite data, i.e. data complementary to the freely available Copernicus Sentinels data, so as to ensure a proper functioning of the area monitoring system (Articles 7(b) and 22 of the HZR proposal). This may include financing images for areas where Sentinels data will not provide reliable information (e.g. small parcels). Furthermore, COM considers the issue of 'monitorability' of small or irregular parcels a technical issue which will be overcome in the near future, certainly before the start of the next programming period.
In our opinion, it is not realistic and feasible to apply an area monitoring system on the basis of Copernicus Sentinels satellite data as of 2021. (See our comments for Art. 63. 4. b))	Freely available Earth Observation data captured by the Copernicus Sentinel satellites and other innovative technologies provide significant information on certain agricultural activities across the EU. Using these technologies will modernise and improve the administration, monitoring and overall operation of the CAP and have multiple benefits for farmers and Member States' administrations. COM will strongly support MS in developing the area monitoring system through technical and legal work. In addition, please note that further rules on the area monitoring system may be developed in implementing acts. Area monitoring should be compulsory from the beginning of the programming period to ensure that: - all MS advance equally in their use of technologies (modernisation is a key objective of the future CAP); - data necessary for performance reporting is created efficiently and in an automatised way; - assurance on CAP expenditure is provided through reliable data on reported output and result indicators; - all MS create a system that helps beneficiaries to comply with their obligations and receive CAP support with minimum disruption to their farming activities instead of focusing on achieving performance by strict controls and penalties. All these ensure a level playing field for farmers in the EU. In sum, COM is strongly opposed to making the area monitoring system optional. Allowing for a transition period would create differences in the level of digitisation of administration/ farmers between MS, which would also impact negatively on the efficiency of administering the CAP and thus indirectly creating issues with the competitiveness of the sector. COM is thus not in favour of a transition period.

Area monitoring system will be compulsory. Does that mean that area-based interventions must be planned by MS in a way that monitoring is suited to the control system? Should area monitoring system be used in every area-based intervention? Has the prefix "area" to the term "monotoring" some special reason? We hope that there could be a transitional period regarding area monitoring system for Member States that have not used a remote sensing system to give them the opportunity to finalise the system and make it work in practice.	COM would like to clarify that the area monitoring system in the proposed HZR should be distinguished from the "checks by monitoring" in the current legislation (Art. 40a, R.809/2014). The area monitoring system in the future will be a system of monitoring agricultural activities, which may be used for checks on eligibility conditions or not, depending on the decision of the MS. Taking into account the subsidiarity given to MS as regards the controls and penalties systems but also the planning of interventions, it is up to the MS to decide how interventions will be designed and fit to the chosen control system. The prefix "area" is used with the intention to distinguish this monitoring from other types of monitoring (e.g. monitoring of policy implementation) present in the proposed regulations. COM takes note of the proposal for a transitional period for area monitoring. However, a llowing for a transition period would create differences in the level of digitisation of administration/ farmers between MS, which would also impact negatively on the efficiency of administering the CAP and thus indirectly creating issues with the competitiveness of the sector.
Concern is expressed about the implementation of the Area Monitoring System due to the large number and percentage of small agricultural parcels. This will result to additional administrative cost due to the obligation that Member States have to perform follow up activities for small parcels to ensure eligibility.	COM would like to clarify that the area monitoring system in the proposed HZR should be distinguished from the "checks by monitoring" in the current legislation (Ar. 40a, R.809/2014). The area monitoring system in the future will be a system of monitoring agricultural activities, which may be used for checks on eligibility conditions or not, depending on the decision of the MS. Furthermore, COM considers the issue of 'monitorability' of small or irregular parcels a technical issue which will be overcome in the near future, certainly before the start of the next programming period. An approach for monitoring areas of pastures maintained by grazing by combining monitoring and LPIS data has also been developed.
Articles 66 to 73 should be deleted entirely. See general comment under Article 63.	The proposal to delete most articles on IACS cannot be accepted. Defining common elements of IACS, an element of the governance system, and providing COM with empowerments to further define features of key elements ensures a level playing field across EU MS in the administration and control of CAP expenditure. IACS is a known and well-functioning system for administering CAP payments (area- and animal based) and has been successful in keeping the error rates comparatively low; hence, COM wishes to continue IACS. The area monitoring system, as a key element of IACS, is therefore part of the required governance system that needs to be in place throughout the period of implementation of the CAP strategic plans in the

	post-2020 period.
Article 69 System for the identification of beneficiaries	
This article stipulates an obligation that 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. Does it mean an obligation for the MS to introduce a system which will detect potential connections of the beneficiary with respect to his involvement in multiple undertakings?	The approach is the same as in the current period (Art. 8, R. 640/2014). The system for the identification of beneficiaries shall record the identity of each beneficiary and guarantee a unique identification with regard to all aid applications and payment claims or other declarations submitted by the same beneficiary.
Articles 66 to 73 should be deleted entirely. See general comment under Article 63.	The proposal to delete most articles on IACS cannot be accepted. Defining common elements of IACS, an element of the governance system, and providing COM with empowerments to further define features of key elements ensures a level playing field across EU MS in the administration and control of CAP expenditure. IACS is a known and well-functioning system for administering CAP payments (area- and animal based) and has been successful in keeping the error rates comparatively low; hence, COM wishes to continue IACS. LPIS, as a key element of IACS, is therefore part of the required governance system that need to be in place throughout the period of implementation of the CAP strategic plans in the post-2020 period.
Article 70 Control and penalties system	
We do not agree with the proposed principle of full discretion as regards the setting up of the control and penalties system as it does not guarantee level playing field among MS. We do not agree with the proposition that Commission will not approve the system within the action plan, as this may undermine legal certainty.	COM is strongly against approving the controls and penalties systems designed by MS. COM wants to move away from a system where the delivery of the policy strongly relies on controls and penalties; instead, COM wants to focus on performance and creating an IACS system that helps beneficiaries comply with their obligations and receive CAP support with minimum disruption to their farming activities. Approving the controls and penalties system set up by MS would risk undermining the simplification potential given by the new delivery model in respect of IACS. Namely, in a scenario where COM would be asked to approve the system of controls and penalties, the following changes to the current proposal would be necessary: - Common rules on penalties and controls at EU level would have to be developed; even if these would be singificantly reduced compared to the current period, rigidity in the system would be back. MS would not have much leeway in adapting the penalties and controls to their local/ regional/ national specificities and the specificities of their interventions; - Detailed descriptions on the controls and penalties system would be required in the CAP SP. COM could not approve this section without understanding the details of the

	system and the context in which it operates; this would cause significant additional workload when preparing CAP Strategic Plans; - After approval of the Strategic Plan, every change to the controls and penalties system of a MS would also have to be approved by COM. MS would be required to justify their request to adapt the system of controls and penalties in light of achieving set performance targets. - Conformity clearance procedures would need to check compliance with common EU rules on controls and penalties and foresee corrections where these are not respected, even in situations where performance is actually achieved. The level playing field will be ensured by common principles that should nevertheless be respected, as given in the Financial Regulation applicable to all EU funds and in Articles 57 and 58 of the proposal for the future CAP horizontal regulation.
This Article stipulates that a control and penalty system is to be set up by Member States. In this regard, more information/details from the EC are required with respect to the general rules on penalties. The required information includes minimum thresholds for penalties and also a clear overview of what the EC is expecting to see.	COM is against defining common rules on controls and penalties. COM wants to move away from a system where the delivery of the policy strongly relies on controls and penalties; instead, COM wants to focus on performance and creating an IACS system that helps beneficiaries comply with their obligations and receive CAP support with minimum disruption to their farming activities. Furthermore, even if the number and complexity of common rules on penalties and controls would be singificantly reduced compared to the current period, rigidity in the system would be back. MS would not have much leeway in adapting the penalties and controls to their local/ regional/ national specificities and the specificities of their interventions. Detailed descriptions on the controls and penalties system would also be required in the CAP SP. This would cause significant additional workload when preparing CAP Strategic Plans. Finally, conformity clearance procedures would need to check compliance with common EU rules on controls and penalties and foresee corrections where these are not respected, even in situations where performance is actually achieved. The level playing field will be ensured by common principles that should nevertheless be respected, as given in the Financial Regulation applicable to all EU funds and in Articles 57 and 58 of the proposal for the future CAP horizontal regulation.
With reference to article 57, we believe that the concept of obvious error should be reintroduced in that article. We have a reserve as regards the deletion of thresholds for triggering sanctions/reductions.	The list set out in Article 57(3) is a non-exhaustive list of cases in which penalties shall not apply. As indicated by the wording “in particular”, Member States can further extend the list to include e.g. cases of obvious error or the concept of “right to error”. COM is against defining common rules on controls and penalties. COM wants to move away from a system where the delivery of the policy strongly relies on controls and penalties; instead, COM wants to focus on performance and creating an IACS system

	that helps beneficiaries comply with their obligations and receive CAP support with minimum disruption to their farming activities. Furthermore, even if the number and complexity of common rules on penalties and controls would be singificantly reduced compared to the current period, rigidity in the system would be back. MS would not have much leeway in adapting the penalties and controls to their local/ regional/ national specificities and the specificities of their interventions. Detailed descriptions on the controls and penalties system would also be required in the CAP SP. This would cause significant additional workload when preparing CAP Strategic Plans. Finally, conformity clearance procedures would need to check compliance with common EU rules on controls and penalties and foresee corrections where these are not respected, even in situations where performance is actually achieved. The level playing field will be ensured by common principles that should nevertheless be respected, as given in the Financial Regulation applicable to all EU funds and in Articles 57 and 58 of the proposal for the future CAP horizontal regulation.
We warmly welcome the subsidiarity for Member States which this article seems to imply. We hope that the delegated and implementing acts about controls and penalties will also be based on subsidiarity and proportionality and will not lay down detailed provisions for Member States concerning the control and penalty system. We have some doubts about implementing acts concerning area monitoring system and its basic features and rules, and how much these rules limit the subsidiarity of Member States in setting up the control system. Another worry concerns the fact that the control and penalty rules relating to conditionality are not based on subsidiary, but they are laid down in considerable detail in the Horizontal Regulation. We suppose that Regulation 2988/95 continues to apply to penalties and concerns penalties, for example relating to retroactive penalties, also in future even if many details relating to penalties will be up to Members States? Regulation 2988/95 is one limitation to the subsidiarity of Member States? Concerning IACS there could be new ideas based on subsidiarity concerning controls, for example conrtol very extensively some items, for example river strips, that are relevant for the environmental results in the new CAP-model. IACS-controls could be done that way, but control rules concerning conditionality make that idea not cost-effective and limit the subsidiarity of Member States .	Delegated and implementing acts about IACS controls and penalties are not foreseen. COM has not asked for an empowerment to develop further rules since full subsidiarity is foreseen on designing the control and penalty system. Concerning the area monitoring system, please note that COM does not foresee to develop rules on the area monitoring system as a control tool (compliance checks at beneficiary level). The empowerments would, if used, focus on defining the area monitoring system as a tool to support performance reporting. Regulation 2988/95 continues to apply. As regards conditionality, the approach is the same as it was for the cross-compliance; given its character (not linked to eligibility and including SMRs), MS can use IACS for the control and administration of conditionality to the extent they consider useful (efficiency considerations), as long as checks are effective.
It should be made clear whether the control and penalties system will be a part of	In line with the new delivery model and in light of the subsidiarity given to MS, MS will

strategic plan and as such, a subject of approval by the EC.	have the freedom to design their own control and penalties' system. In a system where assurance stems from performance, COM sees no need to approve the control and penalty systems designed by MS. A description of the system should be included in the CAP plan but MS will not be asked to provide detailed information; as stated above, this information will not be approved as part of the strategic plan. However, providing this information gives ex ante assurance that basic Union requirements are respected at the moment of approval of the CAP strategic plan.
This provision seems redundant (cfr. article 57(2)) Can the current control and penalty system be used	In line with the new delivery model and in light of the subsidiarity given to MS, MS will have to design their own control and penalties' system; hence, it is left to the MS to decide if they want to make use of their existing control and penalties system.
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. 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. Moreover, it is by no means clear to what extent and how the European Commission or the 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). 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: either the Commission or other EU institutions.	COM is against defining common rules on controls and penalties. COM wants to move away from a system where the delivery of the policy strongly relies on controls and penalties; instead, COM wants to focus on performance and creating an IACS system that helps beneficiaries comply with their obligations and receive CAP support with minimum disruption to their farming activities. Furthermore, even if the number and complexity of common rules on penalties and controls would be singificantly reduced compared to the current period, rigidity in the system would be back. MS would not have much leeway in adapting the penalties and controls to their local/ regional/ national specificities and the specificities of their interventions. Detailed descriptions on the controls and penalties system would also be required in the CAP SP. This would cause significant additional workload when preparing CAP Strategic Plans. Finally, conformity clearance procedures would need to check compliance with common EU rules on controls and penalties and foresee corrections where these are not respected, even in situations where performance is actually achieved. The level playing field will be ensured by common principles that should nevertheless be respected, as given in the Financial Regulation applicable to all EU funds and in Articles 57 and 58 of the proposal for the future CAP horizontal regulation. In principle, COM will not be checking the conditions established by MS in accordance with Article 57(5). Conformity clearance procedures will also be less frequent as they will be triggered only where the governance systems are not in place at the beginning of the CAP plan or deficiencies in these systems are revealed. Specifically for IACS, the exclusion from Union financing (financial corrections) "shall only apply in the case of serious deficiencies in the functioning of the Member States' governance systems".
In Poland's opinion, general conditions regarding control and penalty system (amount of	COM is against defining common rules on controls and penalties. COM wants to move

sanctions, percentage of controls etc) both in relation tpo direct payment (I pillar) and area-based interventions (II pilar), should be determined in basic regulations, similary to EC proposal for conditionality. […] This can result in lack of equel conditions for farmers in the EU.	away from a system where the delivery of the policy strongly relies on controls and penalties; instead, COM wants to focus on performance and creating an IACS system that helps beneficiaries comply with their obligations and receive CAP support with minimum disruption to their farming activities. Furthermore, even if the number and complexity of common rules on penalties and controls would be singificantly reduced compared to the current period, rigidity in the system would be back. MS would not have much leeway in adapting the penalties and controls to their local/ regional/ national specificities and the specificities of their interventions. Detailed descriptions on the controls and penalties system would also be required in the CAP SP. This would cause significant additional workload when preparing CAP Strategic Plans. Finally, conformity clearance procedures would need to check compliance with common EU rules on controls and penalties and foresee corrections where these are not respected, even in situations where performance is actually achieved. The level playing field will be ensured by common principles that should nevertheless be respected, as given in the Financial Regulation applicable to all EU funds and in Articles 57 and 58 of the proposal for the future CAP horizontal regulation.
As a general comment, remark the Spanish request that the description of the integrated system, especially the description of the system of controls and sanctions, must be subject to the approval of the strategic plan by the Commission	COM is strongly against approving the controls and penalties systems designed by MS. COM wants to move away from a system where the delivery of the policy strongly relies on controls and penalties; instead, COM wants to focus on performance and creating an IACS system that helps beneficiaries comply with their obligations and receive CAP support with minimum disruption to their farming activities. Approving the controls and penalties system set up by MS would risk undermining the simplification potential given by the new delivery model in respect of IACS. Namely, in a scenario where COM would be asked to approve the system of controls and penalties, the following changes to the current proposal would be necessary: - Common rules on penalties and controls at EU level would have to be developed; even if these would be singificantly reduced compared to the current period, rigidity in the system would be back. MS would not have much leeway in adapting the penalties and controls to their local/ regional/ national specificities and the specificities of their interventions; - Detailed descriptions on the controls and penalties system would be required in the CAP SP. COM could not approve this section without understanding the details of the system and the context in which it operates; this would cause significant additional workload when preparing CAP Strategic Plans;

	- After approval of the Strategic Plan, every change to the controls and penalties system of a MS would also have to be approved by COM. MS would be required to justify their request to adapt the system of controls and penalties in light of achieving set performance targets. - Conformity clearance procedures would need to check compliance with common EU rules on controls and penalties and foresee corrections where these are not respected, even in situations where performance is actually achieved. The level playing field will be ensured by common principles that should nevertheless be respected, as given in the Financial Regulation applicable to all EU funds and in Articles 57 and 58 of the proposal for the future CAP horizontal regulation.
Articles 66 to 73 should be deleted entirely. See general comment under Article 63.	The proposal to delete most articles on IACS cannot be accepted. Defining common elements of IACS, an element of the governance system, and providing COM with empowerments to further define features of key elements ensures a level playing field across EU MS in the administration and control of CAP expenditure. IACS is a known and well-functioning system for administering CAP payments (area- and animal based) and has been successful in keeping the error rates comparatively low; hence, COM wishes to continue IACS. LPIS, as a key element of IACS, is therefore part of the required governance system that need to be in place throughout the period of implementation of the CAP strategic plans in the post-2020 period.
Article 71 System for the identification and registration of payment entitlements	
It should be made clear that the article is not applicable in MS that do not have a system for payment entitlements.	This article should be seen together with article 64(1)(f) where it is stated that this provision shall apply where applicable, indicating that it is relevant to MS using the system of payment entitlements.
Articles 66 to 73 should be deleted entirely. See general comment under Article 63.	The proposal to delete most articles on IACS cannot be accepted. Defining common elements of IACS, an element of the governance system, and providing COM with empowerments to further define features of key elements ensures a level playing field across EU MS in the administration and control of CAP expenditure. IACS is a known and well-functioning system for administering CAP payments (area- and animal based) and has been successful in keeping the error rates comparatively low; hence, COM wishes to continue IACS. LPIS, as a key element of IACS, is therefore part of the required governance system that need to be in place throughout the period of implementation of the CAP strategic plans in the post-2020 period.
It is not specified to which payment entitlements it refers exactly, which can cause confusion to the reader. A mention to basic income support in this article should be	COM takes note of the comment. Article 71 should be seen together with Article 64(1)(f) where it is stated that this

foreseen	provision shall apply where applicable, indicating that it is relevant to MS using the system of payment entitlements.
Article 72 Delegated powers	
SWE is positive to the COM's will to decrease the number of delegated and implementing acts. This is very welcomed. Although, also the scope of the acts must be reviewed in order to reach real simplification. As far as possible, regulations should be set in the basic acts. Previous experience shows that also technical details in delegated acts may have big importance for the national control systems. Essential elements should not be decided in delegated or implementing acts. SWE consider that the suggested areas about IACS related matters concern essential elements and should therefore not be decided in delaged acts. Also, some of the suggested areas in delegated acts seem to fit better in implementing acts, e.g. how on the sport checks are performed	Generally, COM consider inappropriate to add detailed rules on IACS in the basic act. While the elements of IACS and its main purposes will not change (LPIS, GSA, controls and penalties system etc.), the way how they are implemented could significantly change due to technological innovations. Defining detailed requirements in the basic act could therefore stand in the way of further simplification and modernisation. However, MS are involved in the preparation and adoption of the DA/IA acts under the relevant procedures (comitology for IA and consultation and objection procedure for DA). It is up to the co-legislators to decide on which empowerments should be given to COM (delegated or implementing). Please note that COM is not requesting any empowerments for controls and penalties in IACS.
In accordance with comments to articles 67 and 68: *Drafting suggestions:* *(a) further rules on the quality assessment referred to in Article ~~s~~ 66 , ~~67 and 68;~~*	COM does not agree with the deletion of the QAs for the area monitoring and GSA. The reasons are explained in the replies to ES comments on Articles 67 and 68.
Delegated acts related to systems quality assessment should be adopted by the Commission in a timely manner for effective application by the MS. Adopting them less than two years before implementation is a major implementation risk as long as the proposed changes are fairly consistent and require the adaptation of IT systems and the establishment of strategic Plans.	COM takes note of the request.
Portugal considers that the delegated act requires a better definition of its scope. Therefore, Portugal considers that basic rules and principles to be used in delegated acts should be stated in the basic act.	Generally, COM consider inappropriate to add detailed rules on IACS in the basic act. While the elements of IACS and its main purposes will not change (LPIS, GSA, controls and penalties system etc.), the way how they are implemented could significantly change due to technological innovations. Defining detailed requirements in the basic act could therefore stand in the way of further simplification and modernisation. In any case, MS are involved in the preparation and adoption of the DA/IA acts under the relevant procedures (comitology for IA and consultation and objection procedure for DA).
Same comment raised under article 67 applies for this: This paragraph refers to a quality assessment to be carried out by MS of the data generated by the GSAA. The GSAA is a GIS system that allows the spatial declaration of agricultural parcels which are compiled each year from the area declared in the previous year of areas updated by administrative processes such as OTS and LPIS updates. The	COM takes not of MT's comments. The methodology of QAs will take into account the different implementation practices in MS.

process in Malta is carried out yearly and created from LPIS data which means that in practice the LPIS QA results would be equivalent to the GSAA QA results. In view of this, all efforts should be made to maintain the GSAA QA methodology as cost effective as possible. While Malta agrees that such assessment is imperative in order to ensure the quality of the data being generated, it should be noted that the definition of rules for such assessment mentioned in Articles 67 and 72 must consider the differing implementation practices in MS of the GSAA.	
LU would like to get all the information on quality assessment in the basic act and not in a delegated act.	Generally, COM consider inappropriate to add detailed rules on IACS in the basic act. While the elements of IACS and its main purposes will not change (LPIS, GSA, controls and penalties system etc.), the way how they are implemented could significantly change due to technological innovations. Defining detailed requirements in the basic act could therefore stand in the way of further simplification and modernisation. In any case, MS are involved in the preparation and adoption of the DA/IA acts under the relevant procedures (comitology for IA and consultation and objection procedure for DA).
The Commission is willing to create the possibility to complement the basic act by modifying essential elements of it (e.g. definitions, basic features and rules on the identification system for agricultural parcels, rules on the quality assessment). We believe that it goes against the principle of legal certainty.	COM has already set out the most significant elements in the basic act (e.g. purpose and functions of LPIS). At this stage it is not fully clear what will need to be specified in DA/ IA (this depends on the outcome of negotiations on the HZR and CAP strategic plan, i.e. the final CAP policy package, as well as on the needs of MS), thus no further details can be given. COM does not intend to use its empowerments unless it is strictly necessary. In any case, MS are involved in the preparation and adoption of the DA/IA acts under the relevant procedures (comitology for IA and consultation and objection procedure for DA).
The authorisations are too far-reaching. Essential requirements, e.g. concerning the identification system for agricultural parcels, are to be laid down in the basic act. The authorisations should therefore be deleted or restricted to what is strictly necessary.	COM has already set out the most significant elements in the basic act (e.g. purpose and functions of LPIS). At this stage it is not fully clear what will need to be specified in DA/ IA (this depends on the outcome of negotiations on the HZR and CAP strategic plan, i.e. the final CAP policy package, as well as on the needs of MS), thus no further details can be given. COM does not intend to use its empowerments unless it is strictly necessary. In any case, MS are involved in the preparation and adoption of the DA/IA acts under the relevant procedures (comitology for IA and consultation and objection procedure for DA).
What kind of plans does the Commission have concerning these delegated acts? We hope that all the required reports are known beforehand in order to plan the IT systems	At this stage it is not fully clear what will need to be specified in DA/ IA (this depends on the outcome of negotiations on the HZR and CAP strategic plan, i.e. the final CAP

to cover such reports.	policy package, as well as on the needs of MS), thus no further details can be given. In any case, MS are involved in the preparation and adoption of the DA/IA acts under the relevant procedures (comitology for IA and consultation and objection procedure for DA).
To point (b) Will it also apply to a geospatial application?	Art.72(b) does not refer to the geospatial application.
The Basic Act should contain as much detail as possible as well as clear rules on control issues.	Generally, COM consider inappropriate to add detailed rules on IACS in the basic act. While the elements of IACS and its main purposes will not change (LPIS, GSA, controls and penalties system etc.), the way how they are implemented could significantly change due to technological innovations. Defining detailed requirements in the basic act could therefore stand in the way of further simplification and modernisation. In any case, MS are involved in the preparation and adoption of the DA/IA acts under the relevant procedures (comitology for IA and consultation and objection procedure for DA).
Delegated powers should be more clearly specified.	At this stage it is not fully clear what will need to be specified in DA/ IA (this depends on the outcome of negotiations on the HZR and CAP strategic plan, i.e. the final CAP policy package, as well as on the needs of MS), thus no further details can be given. In any case, MS are involved in the preparation and adoption of the DA/IA acts under the relevant procedures (comitology for IA and consultation and objection procedure for DA).
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.	Generally, COM consider inappropriate to add detailed rules on IACS in the basic act. While the elements of IACS and its main purposes will not change (LPIS, GSA, controls and penalties system etc.), the way how they are implemented could significantly change due to technological innovations. Defining detailed requirements in the basic act could therefore stand in the way of further simplification and modernisation. In any case, MS are involved in the preparation and adoption of the DA/IA acts under the relevant procedures (comitology for IA and consultation and objection procedure for DA).
The delegated power given in relation to Article 69 is acceptable. However for Articles 66, 67, 68 and 71 the Commission's empowerment should be restricted to only adopting implementing acts.	It is up to the co-legislators to decide on which empowerments should be given to COM (delegated or implementing).
La France considère que les règles d'évaluation, les définitions et les règles relatives au SIGC sont des éléments fondamentaux qui doivent être définis directement dans l'acte de base. Ces règles peuvent avoir des conséquences sur les coûts de mise en œuvre du SIGC. Elles doivent être connues suffisamment tôt pour que les États membres les prennent en compte dans leurs réflexions concernant l'élaboration des plans stratégiques.	COM has already set out the most significant elements in the basic act (e.g. purpose and functions of LPIS). COM will not develop rules on the pro-rata or the acceptability of landscape features in the eligible area. Generally, COM consider inappropriate to add detailed rules on IACS in the basic act. While the elements of IACS and its main purposes will not change (LPIS, GSA, controls and penalties system etc.), the way how they are implemented could significantly

Les règles et éléments fondamentaux supplémentaires concernant le système d'identification des parcelles agricoles impactent fortement la définition des surfaces admissibles qui pourra être retenue par les États membres. Par conséquent, elles doivent absolument figurer dans l'acte de base. En particulier, l'admissibilité des éléments topographiques sur les surfaces en prairies permanentes doit y être définie.	change due to technological innovations. Defining detailed requirements in the basic act could therefore stand in the way of further simplification and modernisation. In any case, MS are involved in the preparation and adoption of the DA/IA acts under the relevant procedures (comitology for IA and consultation and objection procedure for DA).
Articles 66 to 73 should be deleted entirely. See general comment under Article 63. 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. 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.	The proposal to delete most articles on IACS cannot be accepted. Defining common elements of IACS, an element of the governance system, and providing COM with empowerments to further define features of key elements ensures a level playing field across EU MS in the administration and control of CAP expenditure. IACS is a known and well-functioning system for administering CAP payments (area- and animal based) and has been successful in keeping the error rates comparatively low; hence, COM wishes to continue IACS. LPIS, as a key element of IACS, is therefore part of the required governance system that need to be in place throughout the period of implementation of the CAP strategic plans in the post-2020 period. Concerning the comments raised on delegated/ implementing acts, COM consider inappropriate to add detailed rules on IACS in the basic act. While the elements of IACS and its main purposes will not change (LPIS, GSA, controls and penalties system etc.), the way how they are implemented could significantly change due to technological innovations. Defining detailed requirements in the basic act could therefore stand in the way of further simplification and modernisation. Please note that there cannot be an expansion of control rules in the future as COM is not requesting an empowerment to adopt delegating/ implementing acts on the controls and penalties system.
Article 73 Implementing powers	
Essential elements should not be decided in delegated or implementing acts. SWE believes that, when possible, implementing acts are to prefer instead of delegated acts.	Details should not be described in the basic act as to give more flexibility for amendments in the future. In any case, MS are involved in the preparation and adoption of the DA/IA acts under the relevant procedures (comitology for IA and consultation and objection procedure for DA).
In accordance with comments to articles 67 and 68 *(Drafting suggestions to understand the comment):* *(a) the form, content and arrangements for transmitting or making available to the Commission of:* *(i) the assessment report ~~s~~ on the quality of the identification system for agricultural parcels ~~, of the geo-spatial application system and of the area monitoring system~~ ;*	Since the Commission will not be prescribing detailed rules on how key elements of IACS should be implemented (LPIS, GSA, area monitoring system), it is important to ensure at a yearly basis that the functions and quality of the tools are regularly checked, any deficiencies revealed and appropriate remedial action taken, where necessary. In case of serious deficiencies in the functioning of these systems, the MS will be asked by the COM to implement the necessary remedial actions according to

(ii) the remedial actions to be implemented by the Member States as referred to in Article~~s~~ 66, ~~67 and 68~~ ;	an action plan providing clear progress indicators. IAs on further rules and procedures of the action plan may be adopted by the COM. For Article 40 action plans (deficiencies in the governance structures) it is not considered feasible to set out, at basic act level, exhaustive details of which (serious) deficiencies would lead to the setting up of action plans. This is also not the case under the current rules.
Implementing acts must be approved at least 18 months before the reporting required by art. 67 and 68 in order to provide timely results of the controls. Any additional quality control involves a methodology, the development of an application and a reporting module according to the required standards.	At this stage it is not fully clear what will need to be specified in DA/ IA (this depends on the outcome of negotiations on the HZR and CAP strategic plan, i.e. the final CAP policy package, as well as on the needs of MS), thus no details were given. COM wants to maintain the status quo concerning the QA methodologies: the main quality elements will be defined in a delegated act (empowerment requested, cf. Article 72(a)) while the detailed methodology will be described in JRC technical documents. In any case, MS are involved in the preparation and adoption of the DA/IA acts under the relevant procedures (comitology for IA and consultation and objection procedure for DA).
The authorisations are too large. The authorisations should therefore be deleted or restricted to what is strictly necessary.	At this stage it is not fully clear what will need to be specified in DA/ IA (this depends on the outcome of negotiations on the HZR and CAP strategic plan, i.e. the final CAP policy package, as well as on the needs of MS), thus no details were given. In any case, MS are involved in the preparation and adoption of the DA/IA acts under the relevant procedures (comitology for IA and consultation and objection procedure for DA).
What kind of plans does the Commission have concerning these implementing acts? Will these acts lay down details for Member States concerning the control and penalty system? W e have some doubts about implementing acts concerning area monitoring system and its basic features and rules, and how much these rules limit the subsidiarity of Member States in setting up the control system.	At this stage it is not fully clear what will need to be specified in DA/ IA (this depends on the outcome of negotiations on the HZR and CAP strategic plan, i.e. the final CAP policy package, as well as on the needs of MS), thus no details were given. In any case, MS are involved in the preparation and adoption of the DA/IA acts under the relevant procedures (comitology for IA and consultation and objection procedure for DA).
The Basic Act should contain as much detail as possible as well as clear rules on control issues.	Details should not be described in the basic act as to give more flexibility for amendments in the future.
Implementing powers should be more clearly specified.	At this stage it is not fully clear what will need to be specified in DA/ IA (this depends on the outcome of negotiations on the HZR and CAP strategic plan, i.e. the final CAP policy package, as well as on the needs of MS), thus no details were given.
It should be clarified which rules the Member States must comply with when using the geo-spatial application system and of the area monitoring system. As controls through a area monitoring system is a new control system, it is necessary with clear requirements in the basic act.	At this stage it is not fully clear what will need to be specified in DA/ IA (this depends on the outcome of negotiations on the HZR and CAP strategic plan, i.e. the final CAP policy package, as well as on the needs of MS), thus no details were given. However, MS are involved in the preparation and adoption of the DA/IA acts under the relevant

	procedures (comitology for IA and consultation and objection procedure for DA). Regarding area monitoring, it should be clarified that the area monitoring system for the next CAP period is different from the system introduced with the Implementing Regulation (EU) No 2018/746, where it is clearly defined as a control system ("Checks by monitoring"). In the future, area monitoring is a system of monitoring agricultural activities. Setting up an area monitoring system is obligatory in the next CAP period to ensure that comprehensive and comparable data is available throughout the EU for policy monitoring purposes (agricultural, environmental, climate…). However, it does not necessarily have to be used for checks in the context of the IACS control and penalties system (cf. Article 70); MS are free to design their own control system and adapt the design of penalties to the specific interventions chosen by the MS/ region as well as national/regional specificities and needs.
Articles 66 to 73 should be deleted entirely. See general comment under Article 63. The Netherlands does not see any need for implementing acts in relation to the IACS. See also our comments as regards Article 72.	The proposal to delete most articles on IACS cannot be accepted. Defining common elements of IACS, an element of the governance system, and providing COM with empowerments to further define features of key elements ensures a level playing field across EU MS in the administration and control of CAP expenditure. IACS is a known and well-functioning system for administering CAP payments (area- and animal based) and has been successful in keeping the error rates comparatively low; hence, COM wishes to continue IACS. LPIS, as a key element of IACS, is therefore part of the required governance system that need to be in place throughout the period of implementation of the CAP strategic plans in the post-2020 period. On IAs, COM wishes to step back from providing detailed rules on IACS. However, depending on the outcome of negotiations on the HZR and CAP strategic plan, i.e. the final CAP policy package, as well as on the needs of MS some further rules on the quality assessment reports and remedial action plans as well as the geo-spatial application and the area monitoring system could be necessary to provide legal certainty on the requirements.
Article 84 Control system for conditionality	
Paragraph 1 In order to simplify the administration further, we propose that the annual review of the control system in article 84 can be the annual report pursuant to Article 8 (3) or possibly part of the certification body's report pursuant to Article 11. Paragraph 3 Denmark would like the business regulation to be agile and adaptable to a rapidly	The certification bodies will be able to use the annual review when preparing their opinion on the governance systems. MS will have to set-up tailor-made control and sanctioning systems fitting needs and reflecting national challenges. The basic rules proposed by the Commission aim at ensuring both a level playing field for all EU farmers and a solid foundation for the proposed new green architecture. They also provide for a balance between

changing society. We would like to ensure that the common rules allows us to exploit the technological opportunities, so we have an efficient management of EU funds. For this reason we find that, it would be useful if the regulation uses a broader definition of technologies. The proposal includes a requirement of a control rate for conditionality of 1% as in the present cross compliance system. However, the effective control rate may variate between Member States depending on how the control is organised. It should be made possible for Member States to respect the control rate of 1% irrespective of the national/regional organisation of controls.	effectiveness of conditionality (minimum control rate and general rule for the calculation of the penalties) and proportionality of the administrative burden (risk analysis to focus on main risks, de minimis for the application of penalties, early warning system). When establishing detailed rules MS will have to maintain such a balance.
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. Therefore, Italy does support proposal of most part of MSs to keep small farmers regime excluded by control and penalties system. 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 beneficiaries, for example: - 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. 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. Paragraph 1 The first paragraph wording does not clarify a number of fundamental features. 1. With reference to the first subparagraph of paragraph 1, will a more detailed description of the control system be included in a delegated act? 2. 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	The Commission does not agree with the proposal Idem for small farmers as previous answer to LV. MS will have to set-up tailor-made control and sanctioning systems fitting needs and reflecting national challenges. The basic rules proposed by the Commission aim at ensuring both a level playing field for all EU farmers and a solid foundation for the proposed new green architecture. They also provide for a balance between effectiveness of conditionality (minimum control rate and general rule for the calculation of the penalties) and proportionality of the administrative burden (risk analysis to focus on main risks, de minimis for the application of penalties, early warning system). When establishing detailed rules MS will have to maintain such a balance. A simple annual review will allow to check that the rules MS have designed indeed fit the purpose and, when necessary, to fix problems. b) refers as currently to the checks provided for by sectorial legislation.

delegated act? Paragraph 3 Point (b): Are checks, reffered 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)?	
Paragraph 1 SE believes that there is a need for more information about what is included in the yearly review, before we can decide on the matter. If the yearly review is introduced in order to replace the corresponding current auditing, SE is positive to the change of principle. Paragraph 2 The definition of ”act” seems to be corresponding to the definition of ”requirement” and may therefore be superfluous. If not, could the COM clarify in what context this term is to be used? Paragraph 3 Today the control sample for the checks of cross compliance is at least 1 %. However, the paying agency must also consider results from controls that are imposed in accordance with sectorial legislation. This is regulated in art.38.5 in the delegated act 640/2014. Is the COM’s intention to include this regulation in a delegated act this period as well? In SE, the control sample is in practice higher than 1 % because of this regulation. We belive that the regulation causes an unfair level playing field among farmers.	MS will have to set-up tailor-made control and sanctioning systems fitting needs and reflecting national challenges. A simple annual review will allow to check that the rules MS have designed indeed fit the purpose and, when necessary, to fix problems. When providing in accordance with Art 11 its opinion on the governance systems put in place, the certification body will have to take into account this annual review. Paragraph 2: “act”corresponds to the“legal acts” referred to in Article 11(3) of the CAP Strategic Plan Regulation.
Paragraph 1 We suggest this amendment due to the fact that it is essential for simplification in order to maintain the current situation, in which there are no cross-compliance controls to beneficiaries under the Small Farmers Scheme, given its reduced risk. Paragraph 3 This modification is an improvement of the initial text. Paragraph 4 We request a clarification about the scope of the annual review of the control system, and its consequences.	Idem for small farmers as previous answer to LV. MS will have to set up tailor-made control and sanctioning systems fitting needs and reflecting national challenges. A simple annual review will allow to check that the rules MS have designed indeed fit the purpose and, when necessary, to fix problems.
The proposed frame of sanction system is to broad/general (we agree with Spain, Germany and other MS). We propose, that al basic provisions concerning conditionality are included in HZR and are not distributed among many delegated acts.	The Commission does not agree with the proposal.
Paragraph 1	MS will have tailor-made control and sanctioning systems fitting needs and reflecting

What should be understood by „existing control systems and administration“? Clarifications are need also as regards the yearly review of the control system in light of the results achieved. Paragraph 3 What checks are considered equivalent to OTSC pursuant to letter (b)? Is it checks pursuant to national legislation? In letter (d), what share of the 1 % should be chosen randomly?	national challenges. A simple annual review will allow to check that the rules MS have designed indeed fit the purpose and, when necessary, to fix problems. b) refers as currently to the checks provided for by sectorial legislation d) MS shall decide the % of random sampling selection .
Paragraph 1 Exceptions should be provided for certain categories of farmers or, at least, for certain requirements of the conditionality system. For example, small farmers should be provided with the derogation from the conditionality obligations. Romania has a large number of small farmers and their control would involve major costs for the administration. Member States shall carry out an annual examination of the control system referredto in the first subparagraph in the light of the results obtained. Clarification is required for " Member States shall conduct a yearly review of the control system". Paragraph 3 If the surface monitoring system is used according to provision in c), the control sample is still 1%?	MS will have to set up tailor-made control and sanctioning systems fitting their specific needs and reflecting national challenges. A simple annual review will allow to check that the rules MS have designed indeed fit the purpose and, when necessary, to fix problems. For small farmers idem as previous answer to LV. Yes 1% control sample as referred to in a) and d).
As regards the Control System of Conditionality, to obligate beneficiaries of round-sum small farmers' payment to conditionality rules will lead to a disproportionate increase in control costs. These beneficiaries account for around 50% of the beneficiaries of Direct Payments and just over 5% of the IACS area. Therefore, Portugal considers that the regulation on the CAP Strategic Plan should contain a provision exempting these beneficiaries from the application of conditionality. Paragraph 1 Last subparagraph - This subparagraph requires Member States “to conduct a yearly review of the control system (…) in light of the results achieved”. Clarification is required on what type of results must be taken into account in this review (e.g. control reports?). Paragraph 3 Subparagraph d) - The on-the-spot control sample should “cover at least 1% of the beneficiaries receiving the aid”. Confirmation is required on the following: • Is the minimum control rate set for all beneficiaries who are obliged to comply with conditionality, and therefore not set for each competent control authority (Regulation 809/2014, Article 68(1), 1st and 3rd subparagraphs) ?	MS will be able to set up tailor-made control and sanctioning systems fitting needs and reflecting national challenges. Details similar to those currently established in secondary legislation (e.g. minimum control rate for each competent control authority) will have to be established accordingly by MS. A simple annual review will allow to check that the rules MS have designed indeed fit the purpose and, when necessary, to fix problems. Idem for small farmers as previous answer to LV.

• In the current framework, if the specific legislation of the matter in question sets different minimum control rates, such rate shall be applied in cross compliance (Reg. 809/2014, Art. 68(1), 4th subparagraph). Is this rule maintained? Or will it be provided for in a delegated act?	
Paragraph 3 It is indicated in Art. 84(3) point (c) that, where apprioprate, remote sensing could be used to carry out on-the-spot checks concerning conditionality. Will the remote sensing (VHR) imaging, as so far, be financed by the EC? It seems that the provisions of the regulation indicate that the EC supplies free of charge only the satellite data for the use of monitoring system (Art. 7 point (c) and Art. 22).	COM will indeed discontinue acquiring images for the purpose of the on-the-spot-checks, since in the next programming period assurance for the Funds does not stem from checking compliance with eligibility conditions at beneficiary level. Instead, and in line with the strategic orientation towards fostering the uptake of new technologies in the CAP, COM will finance complementary data necessary for the proper functioning of the area monitoring system, i.e. data complementary to the freely available Copernicus Sentinels data on which the IACS monitoring system relies (cf. Article 68). This may include financing e.g. HHR images for areas where Sentinels data will not provide reliable information. If a MS uses the area monitoring system for checks in the context of the IACS control and penalties system (cf. Article 70), these satellite data can be re-used for that purpose as well.
Malta reiterates that the new conditionality being proposed is one of its main concerns, especially with the introduction of the conditionality principle as an eligibility condition. Furthermore, in principle, MT is against the introduction of an administrative penalty to be imposed on beneficiaries who do not comply with statutory management requirements as it feels that there are other ways that may be adopted to ensure such compliance. The application of penalties, if anything, should be included as a last option in instances of continued non-compliance. With respect to small farmers, Malta's position is that these should be exempt from conditionality checks as the proposed system as is would generate significant administrative burden on Member States and will also result in a disproportionate increase in burden for such small farmers. This may dissuade them from further benefitting from EU financial support, and may also bring about other environmental socio-economic risks, particularly land abandonment. Paragraph 1 The last part of Paragraph 1 states that 'Member States shall conduct a yearly review of the control system referred to in the first sub paragraph in light of the results achieved'. Clarification is being requested as to what kind of review is being expected and by the EC what results are to be achieved on a yearly basis by Member States. Paragraph 2 Malta strongly maintains that SMR 5, and GAECs 5 and 10 (as stipulated in Annex III of the proposed CAP Strategic Plan Regulation) are made voluntary for Member States.	The Commission does not agree with the proposal Conditionality is the foundation for the new green architecture proposed by the Commission. The proposal aims at ensuring both level playing field for all EU farmers and proportionality of controls and penalties. MS will be able to set up tailor-made control and sanctioning systems fitting needs and reflecting national challenges. A simple annual review will allow to check that the rules MS have designed indeed fit the purpose and, when necessary, to fix problems. Idem for small farmers as previous answer to LV. The Commission does not agree with the proposal to delete SMR 5 (food Law) and GAEC 5 (FaST) and GAEC 10 (ban ploughing PG).

Last subpara: What does the Commission envisage by "yeary review of the control system". Does it go beyond the current provision to assess selection criteria and sample size? What covers "control system" in this framework (OTSC, administrative controls, sanction matrix, …)? What about notification of yearly control statistics as currently foreseen? Will it remain obligatory? Are administrative controls still possible? Is it still left to MS?	A simple annual review will allow to check that the rules MS have designed indeed fit the purpose and, when necessary, to fix problems. Control statistics: Art 86(5) empowers the Commission to adopt delegated acts with further rules on the application and calculation of penalties.
1) Paragraph 3(d) provides for a minimum control rate of 1%. Currently there is a similar provision in the regulation, although with an exception for minimum control rate for animal identification and registration requirements which is 3%. Which minimum control rate will be applicable to animal identification and registration requirements under this paragraph? 2) The regulation should provide an exemption for participants of small farmer scheme as regards the controls and penalties under conditionality system.	1) 1% control rate apply for all obligations listed in Annex III and there is no more reference to minimum control rate set up by sectorial legislation. 2) The Commission does not agree with the proposal
Last sentence of paragraph 1 provides for an annual review of the control system. The Commission should provide an explanation on this procedure: how this review of the control system will be different from current procedures? The control statistics are already reported to the Commission and we consider it to be sufficient. We are concerned that yearly throughout review of control system will lead to additional burdens and costs. Basically, the condition for review should be deleted.	MS will have tailor-made control and sanctioning systems fitting needs and reflecting national challenges. A simple annual review will allow to check that the rules MS have designed indeed fit the purpose and, when necessary, to fix problems.
We do not see the point in annual assessments. As already expressed in our previous written contributions, small farmers should be excluded from (at least certain) requirements of conditionality. The different exemption categories established during the 2014-2020 greening scheme must be carried over to the post 2020 conditionality rules. In principle, the extent of subsidiarity is of key importance with regard to the control systems. With the increasing number and scope of obligations, the administrative burden on authorities grows, while farmers face greater and greater risks of breaching the conditionality standards; which automatically leads to a loss of financial sources. In our view, Paragraph 3 shrinks the possibilities provided for in Paragraph 1, as it fails to mention an essential set of data (i.e. administrative registers that are not necessarily subject of a given year's non-paying-agency control agenda), although in most of the cases these data are directly available for the Paying Agency. Having that said, a slight contradiction is also present as regards Art. 63, where a direct reference is made to the IACS, as a generic tool for conditionality checks.	MS will have tailor-made control and sanctioning systems fitting needs and reflecting national challenges. A simple annual review will allow to check that the rules MS have designed indeed fit the purpose and, when necessary, to fix problems. Idem for small farmers as previous answer to LV. The Commission proposal aims at ensuring both the effectiveness of the control and penalties system for conditionality (notably a minimum control rate of 1 % and a general rule of 3 % for the calculation of the penalty) and its proportionality, including risk analysis to focus controls on high risks, application of a de minimis for the application of penalties and early warning system to avoid applying penalties for minor cases. In addition, under the new delivery model approach Member States will be able to adjust their system. In particular, as proposed in Article 84(3)(c), MS will have the possibility to use the area monitoring system to carry-out the controls.

Hence, it would seem reasonable to add a point in this Paragraph where an obvious reference is made to all types of administrative checks, as legitimate substitutions for OTSC.	
Art 84 par 1 The wording in paragraph 1, first sentence, must be adjusted because a control system cannot guarantee that no beneficiary is in breach of the rules. The wording in paragraph 1 subparagraph 2 is unclear. Which control systems are meant? Only the IACS system or other systems. Paragraph 1 subparagraph 3 specifies what the words "be compatible" mean. Paragraph 1 subparagraph 4 must be deleted, and there is no need for regulation here. Paragraph 3 In paragraph 3 (b) the following point is unclear: Under what specific conditions can it be assumed that these checks are as effective as the on-the-spot checks. Paragraph 3 (d) requires that a minimum control rate be set sufficiently. More details about random components-have to be deleted.	The Commission does not agree with the proposal Paragraph 1, subparagraph 2: reference to the controls systems in place for the implementation of the legal acts referred to in Article 11 of the CAP Strategic Plan regulation Paragraph 1, subparagraph 3: “compatible” means that the systems must be able to work together, for instance that the control reports from one system may be used by another system Paragraph 1, subparagraph 4: reject, see reply to similar question by LV Paragraph 3, effectiveness of the controls: ad-hoc analysis taking into account the national context to be performed by the MS. Random part of control sample is necessary to identify important non-compliances that could be not detected by pure risk analysis control sample selection.
Article 84(3)(d): It should be possible in the system of conditionality to reduce minimum control rate of 1% if small amount of non-compliances has been found in the previous years. Thus, the new subparagraph should be inserted after the first subparagraph of subpoint d).	The Commission does not agree with the proposal An control rate below 1% would definitively not allow an effective implementation of the system.
Article 84(2)(a): In order that the wording of the definition of “requirement” would be the same as in Article 11(4) of the CAP Strategic Plan Regulation, the word ”legal” should be inserted before the word “act”.	In any case need to align with Art 84(3)(b), where the reference to “acts” is to be defined – no other reference to these “acts” in the HZR.
The introduction of the small-farmer derrogation is necessary. The explanation of the new requirement (“yearly review of the control system”) and its link with the certification audit is needed.	Idem for small farmers as previous answer to LV. MS will have much more flexibility to establish obligations that make sense, to focus controls where the risk is and to apply penalties proportionately and with reasonable administrative costs. As a result, MS will implement tailor-made control and sanctioning systems fitting needs and reflecting national challenges. A simple annual review will allow to check that the national rules MS have designed indeed fit the purpose and, when necessary, to fix problems.
ART 84(3) Similar to current regulation, participants of the small farmers scheme should not be sanctioned for infringements of the rules of the conditionality system, therefore additional paragraph should be provided in the regulation, which would provide that small farmers' holdings should not be subject to on-the-spot checks to not create unnecessary burden for administration.	The Commission does not agree with the proposal The main goal of conditionality is to raise awareness among farmers on the need to farm in a sustainable manner for the good of society and the future of their own farm. It would collide with the declared increased ambitions of the future CAP to exclude certain farmers, which indeed cultivate in certain MS a large part of the agricultural land. However, controls and penalties shall be in proportion to the risks of damages for the

	environment, climate, public health, animal health and welfare and plant health. Considering that risk of non-compliance greatly vary across conditionality standards and requirements and across the EU, Member States are much better placed to assess the risk that small holders may represent and to adapt the control and sanction system accordingly.. The risk analysis proposed in Article 84(3)(d), the de minimis for the penalty in Article 85(2)(b) and the early warning system in Article 86(2) aim at ensuring the proportionality of the conditionality system, including a too high burden on small farmers. In addition, when setting-up their control and penalties system, Member States may establish other provisions that would further contribute to its proportionality and effectiveness.
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. 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.	The Commission does not agree with the proposal Article 57 concerns eligibility, regularity and fraud, which is completely different from compliance with conditionality obligations.
Article 85 System of administrative penalties for conditionality	
Paragraph 1 We find that it is an advantage that the definition of holding now is the same in all areas. This simplifies the administration for farmers and for the Member States.	The Commission acknowledges the positive comment.
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. 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.	Reject. Article 57 concerns eligibility, regularity and fraud, which is completely different from compliance with conditionality obligations.
Paragraph 2 Could the COM confirm that when it comes to transfer of land and animals, MS can continue to apply the same principles as today concerning transfer of responsibility of the conditionality and the consequent possible reduction? In point 85.2(c), there is no reference to “exceptional circumstances”. Is this a mistake or is it intentionally? Either way, SE believes that it should be included. Paragraph 3 Could the COM explain the meaning of this paragraph?	MS will have tailor-made control and sanctioning systems fitting needs and reflecting national challenges. A simple annual review will allow to check that the rules MS have designed indeed fit the purpose and, when necessary, to fix problems. The wording “exceptional circumstances” has been included in the draft by AT presidency. Yes concerning tranfer the same principles as current legislation should apply.

	Paragraph 3 meaning: An administrative penalty under conditionality does not affect the legality and the regularity of the expenditure to which it applies. This stems from the fact that conditionality requirements are different from eligibility requirements. If a farmer does not respect the eligibility conditions of a support scheme (e.g. to have the required number of eligible hectares for area-based direct payments), the infringement affects the legality and regularity of the payments. Consequently, the difference between the declared and determined area is taken into account in the error rate calculated specifically for this scheme. Since conditionality is not a support scheme but a mechanism making the link between payments under several support schemes and the respect of rules (GAEC standards and SMRs) which are not eligibility conditions, infringements under conditionality are not considered as affecting the legality and regularity of each payment. The provision of Art 85(3) HZR merely carries over the same provision set in Art 97(4) of Regulation No 1306/2013.
Paragraph 1 It seems to be redundant that both conditions are indicated when the breach of any of them is subject to sanctions.	Idem as previous reply to SK.
Paragraph 1 Does the act or omission have to be intentional or does it suffice when the act or omission is not intentional? What is the difference between letter (a) and (b)? How should an act or omission be assessed when it is not related to the beneficiary's agricultural activity but does concern the area of their holding? Is it then attributable directly to the beneficiary concerned? Is it considered an act/omission (a) related to the beneficiary's agricultural activity or (b) related to non-agricultural activity at their holding? Paragraph 2 Does the force majeure have to be duly notified; including before a check was carried out resulting in the finding?	This article establishes the responsibility of beneficiaries concerning non-compliances that is directly attributable, without prejudice to intentionality. These non-compliances could be linked to the agricultural activity or to the area of the holding.
Paragraph 1 Point (f) should explain whether non-compliance may also be about breach of sanitary and phytosanitary rules, etc. Only non-conformities related to agricultural activity that do not include the sanitary veterinary rules, phytosanitary rules that may be violated within a farm are introduced.	There is no specific reference to sanitary and phytosanitary rules
Paragraph 1 2nd subparagraph - Clarification is required as to whether it is up to the Member State to decide to whom it will apply the administrative penalty, when the area where the non-compliance occurred is transferred to another farmer during the same calendar	Paragraph 2 (a): MS responsibility and concerning transfer the same principles as current legislation should apply.

year. Paragraph 2 Subparagraph a) – see comment on paragraph 1.	
The regulation should provide an exemption for participants of small farmer scheme as regards the controls and penalties under conditionality system.	Idem for small farmers as previous answer to LV.
We propose to clearly define “administrative penalty”.	See Article 86(1)
Art 85 par 1 In the case of Articles 85 (1) and 86 (1), the wording must be chosen in accordance with the judgment of the ECJ in Case C-239/17 in such a way as to ensure that a sanction is to be calculated on the basis of which year and with the payments which year this sanction is to be imposed. It may be to be charged. In addition, Article 85 (1) should include a wording according to which the beneficiary is also liable for infringements which an employee or contracted contractor has culpably committed in order to close a gap here. Par 2 Paragraph 2 should include not only the transfer of agricultural land, but also the transfer of other facilities such as stables or biogas plants.	The Commission does not agree with the proposal. The wording of Article 85(1) refers to the calendar year concerned and it means that the obligations under the scope of conditionality shall be respected in a calendar year approach (from 1 st January to 31 December). Article 86(1) the wording “year of the finding” is appropriate. The Court ruling C-239/17 does not have any impact on the proposal since it clearly refers to a reduction of the amount of payments in the year of finding and, thus, differs from Article 6 of Regulation (EC) 1782/2003 which was subject of the Court ruling. The suggestion on transfer is noted.
Article 85(2)(c) states that no administrative penalty is imposed where the non-compliance is due to force majeure. Article 57(3) lists also other cases where penalties are not imposed, e.g. where the non-compliance is due to an error of an authority. In our view all these other points in Article 57(3) should also be applicable to the system of conditionality	Article 57(3) is under general rules and normally it applies in this case.
First sub-paragraph: The percentage reduction in the case of non-compliance due to negligence should be set in a flexible manner, i.e. “1-3%.” Second subparagraph: “early warning system” (applicable only to minor non-compliances due to negligence) should be simplified by leaving out the “three consecutive years checks”.	The Commission does not agree with the proposal. MS will have much more flexibility to establish obligations that make sense, to focus controls where the risk is and to apply penalties proportionately and with limited administrative costs. Early warning system sets up flexibility to manage cases of minor non-compliances. In these cases farmers shall implement a remedial action. There is no MS obligation of follow up checks but if by chance the farmer is controlled during one of the following three years and it is confirmed that farmers has not implemented a remedial action on the minor non-compliance, thus a penalty shall be applied otherwise it would imply the establishment of a tolerance for minor non-compliances.
Article 85 (1) (b) The text shown under the column “Possible new text” is that proposed by the Presidency in Doc ST 15046/18. Malta requests a clarification as to what the term “other areas” refers to.	Status quo view, with reservation: “Other areas” are non agricultural areas eligible for CAP support. This could be e.g. either rooms used for the storage of pesticides but also non-eligible land where it should be avoided that these less valuable areas are used to e.g. dump waste or to install illegal bird traps.

Article 85 (3) d. Small farms already serve an important role in environmental protection and climate change, and in the current period they are exempted from cross-compliance and greening controls. That's why beneficiaries receiving payment for small farmers or farms up to a specific surface threshold should be excluded from conditionality (as it is already proposed) and also from the control sample.	The main goal of conditionality is to raise awareness among farmers on the need to farm in a sustainable manner for the good of society and the future of their own farm. It would collide with the declared increased ambitions of the future CAP to exclude certain farmers, which indeed cultivate in certain MS a large part of the agricultural land for pure administrative reasons. Considering that risk of non-compliance greatly vary across conditionality elements and across the EU, Member States are much better placed to assess the risk that small holders may represent and to adapt the control and sanction system accordingly.
ART 85 (1) a While the new paragraph 1a introduced to Article 85 by the Presidency is positive, Malta maintains that this exemption should cover also GAECs (which are covered by amendments made to the CAP Strategic Plan Regulation in Article 12), and not just SMRs. Thus, Malta's position is that such exemption covering both SMRs and GAEC should be stipulated within the same Article, and not separately in different Regulations. (The wording of Paragraph 1 seems to imply that the conditionality principles to be set at an administrative level are only related to land. Does this mean that only the SMRs and GAEC applicable to land are set as administrative penalties, while the rest are only checked at control sample level? Confirmation/clarification is required as to whether this understanding is correct.)	The Commission does not agree with the proposal. The main goal of conditionality is to raise awareness among farmers on the need to farm in a sustainable manner for the good of society and the future of their own farm. It would collide with the declared increased ambitions of the future CAP to exclude certain farmers, which indeed cultivate in certain MS a large part of the agricultural land for pure administrative reasons. Considering that risk of non-compliance greatly vary across conditionality elements and across the EU, Member States are much better placed to assess the risk that small holders may represent and to adapt the control and sanction system accordingly.
Article 86 Calculation of the penalty	
Paragraph 1 We would like to ensure legal certainty for the farmers. Paragraph 2 It is positive that Member States, where appropriate, may make use of remote sensing or the area monitoring system, cf. Article 84(3)(c). The area monitoring system is defined in Article 63(4)(b) as a procedure of regular and systematic observation, tracking and assessment of agricultural activities and practices on agricultural areas by Copernicus Sentinels satellite data. In IACS context the area monitoring system cover 100 pct. of the agricultural area in the Member State. If this implies in, case of applying the area monitoring system, that the control sample on conditionality would cover 100 pct. instead of the required 1 pct., it would give dis-incentives for using area monitoring in relation to conditionality. Hence, a solution has to be found how to equalise farmers in a system based on either of the two control sample systems. A possibility could perhaps be to select the 1 pct. sample within the 100% area	The Commission does not agree with the proposal. MS will have to set-up tailor-made control and sanctioning systems fitting needs and reflecting national challenges. The basic rules proposed by the Commission aim at ensuring both a level playing field for all EU farmers and a solid foundation for the proposed new green architecture. They also provide for a balance between effectiveness of conditionality (minimum control rate and general rule for the calculation of the penalties) and proportionality of the administrative burden (risk analysis to focus on main risks, de minimis for the application of penalties, early warning system). When establishing detailed rules MS will have to maintain such a balance, and will have necessary leeway to adapt their penalties to their needs. The area monitoring system is much more than an alternative mean to perform controls, and up to now it has never been applied to cross-compliance. The Commission will make use of the experience that will be gained in 2019 with the actual implementation by some MS of the area monitoring system to establish rules that will be necessary to ensure level playing field and effectiveness of using the area

monitoring sample, cf. Article 84(3)(d), and state that possible non-compliances established outside the 1 pct. control sample would have no consequences for farmers. Paragraph 4 In practice, it is very difficult to prove intentional non-compliance so we prefer to delete this paragraph and allow Member States who wish so to include it in their penalty system. Paragraph 5 We recognize that there is a huge difference in the structure of our countries, so we are pleased with the Commission's approach with increased subsidiarity. However, we consider that there is scope for providing additional flexibility to Member States in relation to the sanctions system in the CAP plan.	monitoring system for conditionality.
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. 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.	The Commission does not agree with the proposal. Article 57 concerns eligibility, regularity and fraud, which is completely different from compliance with conditionality obligations.
Paragraph 1 SWE encourages the COM to regulate percentages only in the basic act. Can the COM confirm that this is their intention? Could the COM confirm that it is possible for the MS to apply the same calculation principles for reduction for conditionality as we do in today's reduction for cross compliance? I.e that these principles are covered by the new principles in the proposal for the new HzR. Paragraph 2 The general rule on reductions of 3 % for negligent non-compliances is applicable regardless of the type of non-compliance. This might lead to assessments that are based on statistics instead of actual severity, extent and permanence. This 3 % rule should therefore be removed as we consider it contradictory to this other assessment. If instead, the aim is to put 3 % as a kind of center or middle value where it is possible to lower it to e.g. 1 % or increase it to e.g. 5 %, the wording should be clarified. SWE wants to be able to use to Early Warning System in a greater extention than today. We belive that it should be allowed in all cases concerning I&R of animals. In order to do so, we would like to ask the COM to clarify whether there are any SMR's or GAEC's where non-compliances could never be considered as a minor? If there are SMR:s or GAEC:s where non-compliances automatically is to be considered as a direct risk to	The current framework of cross-compliance is simplified, as only certain basic rules are maintained such as the general rule for a 3% reduction in case of negligent infringements. The Commission can confirm that MS will be able to continue apply the current rules. The 3 % rule proposed by the Commission is not a target to be achieved in terms of average sanction to be actually applied. It is proposed as a common starting point for MS when setting up, in accordance with Article 86(1), second sub-paragraph, the precise rules for taking into account the severity, extent, permanence, reoccurrence and intentionality of the non-compliance determined. This rule is necessary to ensure level playing field for all EU farmers. The basic rules proposed by the Commission aim at ensuring both a level playing field for all EU farmers and a solid foundation for the proposed new green architecture. They also provide for a balance between effectiveness of conditionality (minimum control rate and general rule for the calculation of the penalties) and proportionality of the administrative burden (risk analysis to focus on main risks, de minimis for the application of penalties, early warning system). When establishing detailed rules MS will have to maintain such a balance, and will have necessary leeway to adapt their penalties to their needs. Intentionality only applies to extreme cases, which are fortunately rare. However,

public or animal health, it should be clearly stated here. If not, it should be safe for the MS to assume that there are no such limitations. Regarding mandatory training SE would like to point out that it is important that this option is truly maintained as optional in the final proposal of this regulation. Paragraph 3 SE encourages the COM to regulate as much as possible in the basic act. Can the COM confirm that this is their intention? Paragraph 4 SWE is positive towards excluding the general reduction of a certain percentage in the case of intentional non-compliance. Paragraph 5 As far as possible, regulations should be set in the basic acts. Previous experience shows that also technical details in delegated acts may have big importance for the national control systems. Essential elements should not be decided in delegated or implementing acts. As far as possible, required details concerning controls and sanctions should preferably be decided in implementing acts instead of delegated acts.	these cases causing serious damages must be sanctioned in a deterrent way to ensure against their repetition in the future. In case of reoccurrence and intentionality, MS shall apply higher percentages while the current rules on reoccurrence, capping and the 20% penalty for intentionality are abolished. Hence, MS will have more leeway to adapt their penalties to their needs.
Paragraph 1 It is proposed to eliminate the references that are made to intentionality, since the determination of it has been shown to be very complex. This would imply an important simplification both for the administration and for the farmers who would not have to initiate complex legal procedures to refute their intentionality. Paragraph 2 Establishing the percentage of reduction "as a general rule of 3%" implies that the sanctions imposed by the MS must be placed in a similar or superior environment, without being taken into account when there is better compliance by the beneficiaries. The rapid alert system referred to in Article 86 should be simplified by removing the retroactive application of the reduction, and simplifying the follow-up of these cases, since it is considered that these are minor breaches. Paragraph 4 In accordance with comment in paragraph 1. Paragraph 5 Reinforced Conditionality is a key element of the system and should be covered by the basic regulation, and therefore with the intervention of the co-legislators	MS will have to set-up tailor-made control and sanctioning systems fitting needs and reflecting national challenges. The basic rules proposed by the Commission aim at ensuring both a level playing field for all EU farmers and a solid foundation for the proposed new green architecture. They also provide for a balance between effectiveness of conditionality (minimum control rate and general rule for the calculation of the penalties) and proportionality of the administrative burden (risk analysis to focus on main risks, de minimis for the application of penalties, early warning system). When establishing detailed rules MS will have to maintain such a balance, and will have necessary leeway to adapt their penalties to their needs. Intentionality only applies to extreme cases, which are fortunately rare. However, these cases often causing public scandals must be sanctioned in a deterrent way to ensure against their repetition in the future.
Paragraph 3 It is necessary to determine the base year of the finding of non-compliance and subsequent repetition (in the new perspective the baseline is broader; according to the	The Commission takes note. In case of reoccurrence and intentionality, MS shall apply higher percentages while the current rules on reoccurrence, capping and the 20% penalty for intentionality are

information so far, the system of calculation of penalties allows for greater flexibility of MS). Paragraph 4 If the sanction system maintains intentional non-compliance, then it is necessary to clearly distinguish intentional non-compliances as such and repeated violations that eventually become intentional non-compliances. We believe that a clear definition of the various possible non-compliances in the basic regulation is needed.	abolished. Hence, MS will have more leeway to adapt their penalties to their needs.
Paragraph 2 An improvement to the wording is necessary; the “early warning system” is not flexible and it should not be applied retroactively. MS should have the possibility to decide whether to impose/not impose sanctions in the case of minor non-compliance. Paragraph 3 Should the second and next negligent act/omission be considered a reoccurrence? What percentage of reduction should be applied in the case of intentional non-compliance, mainlywith regard to the fact that no upper limit is set in this paragraph. It could be worth considering introducing an upper limit of the percentage of reduction, taking into account level playing field. Paragraph 4 It is unclear what situation can result in total exclusion of payments. What is considered intentional non-compliance? Can the total exclusion of payments be caused only by a reoccurring intentional non-compliance or also an intentional non-compliance of extreme severity and extent? What provision should apply in case of non-compliance resulting from negligence of extreme severity and extent? Paragraph 5 The scope of delegated powers is too broad; these issues should be stipulated in the basic act.	The current framework of cross-compliance is simplified, as only certain basic rules are maintained such as the general rule for a 3% reduction in case of negligent infringements. Reject. The absence of remedial action justifies the application of a (proportionate) penality. Intentionality only applies to extreme cases, which are fortunately rare. However, these cases causing serious damages must be sanctioned in a deterrent way to ensure against their repetition in the future. In case of reoccurrence and intentionality, MS shall apply higher percentages while the current rules on reoccurrence, capping and the 20% penalty for intentionality are abolished. Hence, MS will have more leeway to adapt their penalties to their needs. Reject.
Paragraph 1 For the purpose of calculating those reductions and exclusions, account shall be taken of the severity, magnitude, persistence, repetition or deliberate nature of the non-compliance found. Sanctions must be dissuasive and proportionate and comply with the criteria set out in paragraphs 2 and 3 of this Article. Definitions of severity, scope, persistence, deliberate non-compliance should be defined in order to have a unitary approach at Member State level.	The Commission does not agree with the proposal. This could be considered under a DA. Take note of 1/3/5%. MS will have much more flexibility to focus controls where the risk is and to apply penalties proportionately and with reasonable administrative cost.

Paragraph 2 The percentage of reduction should be left to the choice of the Member State. As other Member States mentioned, the reduction should be between 1-5% depending on the severity of the negligence. However, cases of non-compliance which constitute a direct risk to public or animal health are always subject to a reduction or exclusion. Non-compliances constituting a direct risk to public or animal healthshould be established in order to have a unitary approach at Member State level. Paragraph 5 Delegated acts and additional rules should be adopted in due course by the Commission, for the implementation by the MS.	
Paragraph 1 This paragraph states that, "for the calculation of (…) reductions and exclusions, account shall be taken of (…) intentionality of the non-compliance determined". In view of the difficulties in determining the intentionality of many types of non-compliance in the context of conditionality, and since it is only possible to determine that the non- compliance was intentionally committed following legal action, Portugal proposes that intentionality is defined via the successive repetition of the same type of non-compliance. It should also be noted that in the case of penalties applied under the IACS the concept of intentional non-compliance no longer applies. Paragraph 2 1st subparagraph - It is stated that "in the case of non-compliance due to negligence, the percentage of reduction shall be as a general rule 3%". Clarification is required on how the criteria for severity, extent and permanence of non-compliance due to negligence apply for the purpose of determining the percentage of reduction (last subparagraph of paragraph 1). Portugal considers that the provision currently in force should be maintained in relation to the maximum % reduction for negligent non-compliance (Article 99(2) of Regulation 1306/2013 states that in the case of non-compliance due to negligence, the reduction may not exceed 5%). Can we expect a delegated act regarding the % of reduction for the negligent non-compliance? Paragraph 3 The proposal states that in cases of recurrent non-compliance, the reduction to be applied shall be higher than that applied in negligent non-compliance. Currently, Article 99(2) of Regulation 1306/2013 states that in the case of recurrence, the reduction may	The Commission does not agree with the proposal. Intentionality only applies to extreme cases, which are fortunately rare. However, these cases causing serious damages must be sanctioned in a deterrent way to ensure against their repetition in the future. Take note of 1/3/5%. The Commission does not agree with the proposal on reocurrence. In case of reoccurrence and intentionality, MS shall apply higher percentages and they will have more leeway than today to adapt their penalties to their needs.

not exceed 15%. Is it up to the MS to set this/these level(s) or will it/they be set through a delegated act? Paragraph 5 Clarification is required as to whether the Commission intends to define the concepts of the various types of non-compliance (negligent, recurrent and intentional) as well as the criteria of severity, extent and permanence by means of a delegated act? Portugal considers that they should be defined in the basic act.	
Paragraph 2. The 3% sanction as a general rule is considered to be high. The % sanction is to beset between 1% and 5% as per current arrangements taking into consideration the gravity of the breach of obligation in question. Member States should have the flexibility to be able to evaluate the different obligations and impose sanctions according to the weighting of each of them; sanctions should be set at 1%, 3% and 5%. The proposal stipulates that Member States are to apply a sanction in relation to the early warning system retrospectively if the minor infringement is repeated for 3 consecutive years. In this regard, Malta believes that the early warning system should only be applied for the control year in question, and if a beneficiary takes remedial action in that same control year no sanction is imposed. To explain better, the beneficiary that is found to have a minor infringement will be given notice to remedy such breach and if the period for remedial action is not abided with then a sanction will be given.	The current framework of cross-compliance is simplified, as only certain basic rules are maintained such as the general rule for a 3% reduction in case of negligent infringements. The basic rules proposed by the Commission provide for a balance between effectiveness of conditionality (minimum control rate and general rule for the calculation of the penalties) and proportionality of the administrative burden (risk analysis to focus on main risks, de minimis for the application of penalties, early warning system). When establishing detailed rules MS will have to maintain such a balance.
We should foresee the possibilty to define human error (without sanctions). Furthermore, we need thresholds for the applications of sanctions in case of minor infringements. Early warning sanction: Instead of retroactive reduction, we prefer to apply a higher reduction for the following infringements, in order to avoid burdensome recalculation and recovering of amounts already paid. Reoccurence: We ask to start management of infringements and sanctions from the first year of implementation of the new enhanced conditionality. So, no link between current cross compliance and new enhanced conditionality (infringements in cross compliance before implementation of the reform are not to be taken into account).	MS will have to set-up tailor-made control and sanctioning systems fitting needs and reflecting national challenges. The basic rules proposed by the Commission aim at ensuring both a level playing field for all EU farmers and a solid foundation for the proposed new green architecture. They also provide for a balance between effectiveness of conditionality (minimum control rate and general rule for the calculation of the penalties) and proportionality of the administrative burden (risk analysis to focus on main risks, de minimis for the application of penalties, early warning system). When establishing detailed rules MS will have to maintain such a balance.
Regarding intentional non-compliance, we believe that the term should be replaced by ‘severe and substantial non-compliance’. In general, it is very difficult to assess the motives of the farmer's activities and to determine whether the infringement was committed intentionally and deliberately.	The Commission does not agree with the proposal. Intentionality only applies to extreme cases, which are fortunately rare. However, these cases often causing serious damages must be sanctioned in a deterrent way to ensure against their repetition in the future.
1) The minimum percentage of reduction of support should be maintained at 1% as provided by current legislation	MS will have to set-up tailor-made control and sanctioning systems fitting needs and reflecting national challenges. The basic rules proposed by the Commission aim at

2) Paragraph 2 provides for the application of a retroactive reduction if minor non-compliances have not been remedied. Retroactive application of reductions and adjusting of aid amounts is a complicated procedure that creates a disproportionate burden. Therefore application of retroactive reductions should be abandoned and all sanctions should only be applied to amounts resulting from aid application in the current or following year(s), possibly to some greater extent.	ensuring both a level playing field for all EU farmers and a solid foundation for the proposed new green architecture. They also provide for a balance between effectiveness of conditionality (minimum control rate and general rule for the calculation of the penalties) and proportionality of the administrative burden (risk analysis to focus on main risks, de minimis for the application of penalties, early warning system). When establishing detailed rules MS will have to maintain such a balance.
A confirmation is necessary from the Commission that administrative penalties do not affect any applications other than those the applicant has submitted or will submit in the course of the calendar year of the finding. Furthermore, a more obvious wording is needed. Paragraph 2 2. Subparagraph 2. It should be ensured that reductions in relation to subsequent non-compliances only apply retroactively as of the date of entry into force of this regulation. Paragraph 5 Delegated powers should be kept to the minimum and should not interfere with arrangements already made by MSs, acting along the provisions of the basic regulations and their Strategic Plans in good faith.	The Commission takes note.
Art 86 par1 In the case of Articles 85 (1) and 86 (1), the wording must be chosen in accordance with the judgment of the ECJ in Case C-239/17 in such a way as to ensure that a sanction is to be calculated on the basis of which year and with the payments which year this sanction is to be imposed. It may be to be charged. Par 2 The previous regulation on the early warning system has not proved its worth, but has often led to disproportionate sanctions. The provisions of Article 86 (2) subparagraphs 2 and 4 must therefore be deleted. They must be replaced by a general formulation. This must then allow MS to refrain from sanctioning in the event of minor infringements. Par 3 Paragraph 3 makes it clear that repetitions relate only to infringements committed from the date of entry into force of this Regulation Par 5 Paragraph 5 must be deleted. An authorization to delegate acts is incompatible with a system to be set up by MS. Essential requirements must be regulated, as far as necessary, in the Basic Law Act.	The Commission does not agree with the proposal. Article 86(1) the wording "year of the finding" is appropriate. The Court ruling C-239/17 does not have any impact on the proposal since it clearly refers to a reduction of the amount of payments in the year of finding and, thus, differs from Article 6 of Regulation (EC) 1782/2003 which was subject of the Court ruling.
Article 86(5) empowering the Commission to adopt delegated acts should be deleted	The Commission does not agree with the proposal.

because all rules on the administrative penalties should be known to Member States as from the moment when the Horizontal regulation is adopted. Further regulation through delegated acts does not support subsidiarity and also complicates the process of drafting the CAP Plan.	
Article 86(4) on intentional non-compliance should be deleted also because assessing intent has proven extremely difficult. It might lead to different interpretations in different cases, which means that farmers are not treated equally. It should also be taken into account that the definition of “intentionality” does not apply to the aid schemes (see Article 57(3), first subparagraph where intentionality is not mentioned).	Intentionality only applies to extreme cases, which are fortunately rare. However, these cases causing serious damages and sometimes public scandals must be sanctioned in a deterrent way to avoid repetition in the future.
Article 86(3) should be deleted.	The Commission does not agree with the proposal.
1) In general, Articles 86(2), 86(3) and 86(4) set out a number of detailed rules on the penalty system for conditionality, thus limiting the possibilities for Member States to simplify their systems. The rules for conditionality should also be based on subsidiarity, as is the case in respect of the rules concerning IACS. Real simplification in this area will require that the implementation of penalties of different interventions and other eligibility criteria, including conditionality, are as uniform as possible, as well as based on subsidiarity and proportionality. When we compare the IACS rules and rules concerning controls and penalties for conditionality in the proposal, this seems not to be the case. Therefore, the following paragraphs in Article 86 should be deleted: 86(2), first subparagraph, 86(3) and 86(4). 2) Article 86(2), first subparagraph: If the first subparagraph cannot be deleted, at the very least the following amendments should be made: No general rule 3% for penalties should be given because a general rule 3% is unclear and too strict. It would be clearer to state the penalties as 1%, 3% and 5 %. 3) Article 86(2), second subparagraph: As regards, early warning system administrative penalties should not be applied retroactively, because the retroactive penalties are complicated both for the farmers and for the administration. Thus, it should be enough to apply a penalty only for the year when the non-compliance was found not to have been remedied.	The Commission does not agree with the proposal, although takes note of 1/3/5%. MS will have much more flexibility to establish obligations that make sense, to focus controls where the risk is and to apply penalties proportionately and with reasonable administrative costs. As a result of the above MS will be able to set up tailor-made control and sanctioning systems fitting needs and reflecting national challenges. A simple annual review will allow to check that the rules you have designed indeed fit the purpose and, when necessary, to fix problems.
1) Article 86(1), first subparagraph: Article 86(1) states that reduction or exclusion of the total amount of the payments will be imposed to the calendar year of the finding. However, it would be clearer for the farmers and for the administration if the reduction were imposed to the calendar year of the non-compliance. Is it so that ”the total amount of the payments” means the amount to which all other reductions based on eligibility controls have already been applied? 2) At the moment the penalties relating to cross compliance are not equitable and	1) The year of the finding is set up by the Court’s ruling 239/17. 2)Yes. 3) The Commission does not agree with the proposal. Conditionality applies the whole farm approach (all surfaces, aprcels and premises of the holding of the beneficiary) and it applies to all CAP support received by the beneficiary referd to in Article 11 of CAP plan Regulation. Intentionality only applies to extreme cases, which are fortunately rare. However,

proportionate, especially for farmers in different production sectors (animal husbandry/crop production). When for example, farms only with a few animals but hundreds of hectares have a non-compliance in animal-related cross compliance requirements and the penalty is applied to all area-based direct payments and rural development payments, the penalty seems to be too big in relation to the animal number. And, vice versa, when there are just a few hectares and lot of animals and an error concerning the area-related cross compliance rules leads to a cutting of the animal related payments. This unfair situation should be changed in the system of conditionality. Therefore, the new subparagraph should be inserted after the first subparagraph of Article 86(1) for those Member States where animal-related voluntary coupled support and animal-related rural development support are applied, 3) Assessing intent has proven extremely difficult. It might lead to different interpretations in different cases, which means that farmers are not treated equally. It should also be taken into account that the definition of "intentionality" does not apply to the aid schemes (see Article 57(3), first subparagraph where intentionality is not mentioned).	these cases causing serious damages to environment and climate, public animal and plant heath and animal welfare, and public scandals, must be sanctioned in a deterrent way to avoid their repetition in the future.
Article 86 (2). The 3% penalty is perceived by us as making the conditions stricter compared to the currently applicable system unless the Commission provides for a range of options in the follow-up acts, namely 1 or 5 % reduction due to negligence.	Idem
Article 86 (2) Croatia supports the Presidency drafting suggestion from the document 15046/18	The Commission does not agree with the proposal, although takes note of 1/3/5%. In general, under the principle of subsidiarity it shall be for MS to establish the relevant evaluation lists for each SMR and GAEC (see also under reply to SE).
Article 86 (2) We agree with the Presidency proposed change as set out in the possible new text on the penalty rates for non-compliances due to negligence, with the inclusion of the rates of 1% and 5%, in addition to 3%. Ireland considers that similar provisions should be provided in relation to the calculation of penalties in respect of reoccurrence (Article 86.3) and intentional non-compliances (Article 86.4), thereby ensuring "a level playing field" across MS.	The Commission takes note (though narrows down MS discretion in setting lower e.g. 0.5%).
Article 86 (2) Sweden believes it could be clarified what constitutes a direct risk to public or animal health in the third paragraph. If there are SMRs or GAECs where non-compliances automatically is to be considered as a direct risk to public or animal health, it should be clearly stated here. If not, it should be safe for the MS to assume that there are no such limitations and that it is for the MS to define.	The Commission does not agree. MS are better placed to assess this since the notion of risk depends on national/regional factors. Moreover, the Swedish request appears as not appropriate, as it would require COM to set an exhaustive list of all future possible non-compliances that might occur and classify them accordingly. Moreover, as the GAECs are to be defined by MS taking account of their local and climatic conditions, these might even vary within one MS. Furthermore, under the principle of subsidiarity it shall be for MS to establish the

	relevant evaluation lists for each SMR and GAEC.
Article 87 Amounts resulting from the administrative penalties on conditionality	
We believe that the current percentage of 25 % should be retained.	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate
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). 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.	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate.
Italy does support proposal of almost all of MS to keep current percentage (25%).	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate.
SWE believes that the percentage should stay 25 %.	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate.
It is proposed to maintain the status of the current regulation which is 25%. According to the legislative proposals, in which there is an increase in standards and requirements to be controlled, it is logical that the MS has a greater administrative burden, which is why this reduction indicated in the new regulation is not understood.	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate.
The possibility to retain 25 % of the amounts should be maintained.	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the

	process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate.
Instead of 20% we propose 25%.	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate.
Portugal considers that the current 25% retention rate in favour of MS under Article 100 of Regulation 1306/2013 should be maintained.	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate.
Member States may retain 20 % 25 % of the amounts resulting from the application of the reductions and exclusions referred to in Article 86.	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate.
25% should remain as a percentage applied to retained amounts resulting from the application of the reductions, similar to the provisions in the current regulation	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate.
As almost all other Member States, Hungary proposes that Member States should be able to retain 25% of the amounts resulting from the application of the reductions and exclusions referred to in Article 86, as it is in Article 100 of Regulation 1306/2013/EU.	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate
Article 87 has to be left at the previous rate of 25%	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate.
Why is the percentage just 20%, instead of 25% as it is at present? We see no reason why the percentage should be lowered. We suggest that the percentage should be 25%.	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the

	process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate.
We propose that there is a possibility to retain 25% of the amounts as is the case in the current period under Article 100 of Regulation (EU) No 1306/2013	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate.
Member States may retain at least 25 % of the amounts resulting from the application of the reductions and exclusions.	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate.
Although Malta welcomes the increased flexibility introduced in the proposed compromise text, Malta reiterates that Member States should have the opportunity to re-use all recovered amounts (from both Pillar I and Pillar II). The percentage should be kept at 25% in line with current arrangements, as such funds are required by Member States to alleviate administrative burden and cover costs related to control procedures.	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate.
Croatia supports the Presidency drafting suggestion from the document 15046/18. Croatia does not support the reduction of amount of administrative penalties that Member States may retain.	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate.
Why the retain percentage is lowered from 25% to 20%? We argue for the maintenance of at least the actual percentage of 25%. The proposal suggested in the working party of 19 September, i.e. a percentage of 100% if used for ecoschemes or environmental or climate commitments, has our support.	The Commission believes that recovery costs for administrative penalties on conditionality should be aligned with the ones under non-compliance following Article 54 of the HZR proposal, which are set at 20%. The use of modern technologies in the process of controls and penalties lead to lower costs by the administration and therefore, the level of 20% seems more appropriate.