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WORKING PAPER

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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Financial Agricultural Questions
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013 - Commission non-paper on HZR Article 57 (Protection of the financial interests of the Union)

Delegations find attached the above mentioned non-paper from the Commission services related to item 3 of the agenda of the WP AGRIFIN of 11 November.



NON-PAPER

This non-paper aims at providing more information on the Commission's drafting suggestion related to Article 57 of the Horizontal Regulation, presented in document WK 10645/2020 INIT.

The Commission's drafting suggestions related to Article 57-*Protection of the financial interests of the Union* of the Horizontal Regulation

1. AIM

This non-paper aims at clarifying the Commission's drafting suggestions related to Article 57 of the Commission's proposal for HZR¹. It provides more information on the need to adopt additional mechanisms to continue to protect the Union's financial interests and on how this could be achieved through a single data-mining tool.

2. BACKGROUND

The European Council underlined the importance of the protection of the Union's financial interests and of the respect of the rule of law in its conclusions of 21 July 2020. Against this background, the Commission proposed to improve the information currently collected by the Member States on beneficiaries of certain EU funding implemented under shared management and the way such information is analysed and used for control and audit purposes by the Member States and for supervision by the Commission. The compulsory use of a single data-mining tool would strengthen sound financial management of the Common Agricultural Policy (CAP) expenditure. The tool would further reinforce the governance systems, which are the basis for the new performance-based CAP.

The Commission suggested that the general requirements of the single data-mining tool as an amendment to Article 57 of the Commission's proposal for Horizontal Regulation. The details of this tool would be further developed in an implementing act.

3. ARACHNE

As part of the fight against fraud (and irregularities), the Commission developed ARACHNE, a data-mining and risk-scoring tool that is offered free of charge to Member

¹ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013 - Drafting suggestion from the Commission- WK 10645/2020 INIT.

State authorities for their voluntary use for the European Structural and Investment Funds (ESIF). In 2013, the Commission launched ARACHNE to help the Managing Authorities of the Cohesion ESIF to identify the most risky projects, contracts, contractors and beneficiaries. Currently, 19 Member States use ARACHNE for ESF/ERDF, covering some 245 Operational Programmes for the 2014-2020 period. Around 5 950 user accounts were created for the Cohesion ESIF, with an average of 1 800 active users per quarter.

ARACHNE is compliant with Regulation (EU) 2016/679 (OJ L 119, 4.5.2016, p. 1) - General Data Protection Regulation (GDPR).

As of December 2018, ARACHNE is also available to the Member States authorities responsible for the management of the CAP EAFRD. Currently, five Member States use the ARACHNE tool for EAFRD, while four other Member State are testing the tool. The Commission would like to make the use of ARACHNE mandatory in the CAP post 2020.

Member States, which have started using ARACHNE for checking EAFRD projects have highlighted the following benefits:

- **Project evaluation and selection:** ARACHNE is seen as an additional tool to help selecting the right projects based on potential risks.
- **Quality of the administrative checks:** ARACHNE can complement administrative checks on applications for funding/payment.
- **Links between stakeholders:** the ability of ARACHNE to establish potential links between beneficiaries and other stakeholders in a project is seen a major asset, especially since the tool relies on worldwide data which most Paying Agencies cannot access.
- **Identification of risks:** ARACHNE is perceived as an interesting tool to identify risks, especially regarding potential conflicts of interests, fraud, and company viability. According to a survey launched in May 2020 by the ARACHNE IT team among all ESF/ERDF/EAFRD users: 81% of the respondents consider the use of ARACHNE as useful, while 21% already identified an irregularity in a project based on information from ARACHNE and 14% identified a case of fraud or suspected fraud (the latter percentages increase to 46% and 38%, respectively, when taking into account only the respondents who use ARACHNE on a daily basis).

The Commission also received comments from Member States on the limitations and potential challenges linked to use of ARACHNE for the CAP expenditure. Whilst ARACHNE is already applied for the EAFRD project based expenditure, the Commission acknowledges Member States' concerns. The Commission is currently working to further develop some aspects of ARACHNE to make it 100% suitable for all types of CAP funding (see sections 4 and 6 below).

4. SCOPE OF USE

The compulsory use of the single data-mining tool for the CAP expenditure should cover all CAP expenditure, including direct payments. The intention is that all administrative checks should be done electronically and that the single data-mining tool should be able to work with the existing IT systems for the CAP, including the Integrated Administration and Control Systems (IACS) in the Member States. The aim for this

additional functionality of ARACHNE is to be in place from the entry into force of the CAP post 2020 regulations

Member States would need to ensure that beneficiaries in their claims also indicate the beneficial owners where the beneficiary is not a natural person, but eg a limited company, eg. by including this question in the geospatial aid application².

5. ARACHNE OR ANOTHER DATA-MINING TOOL?

In its drafting suggestions, the Commission proposes a single-data mining tool, to be made available by the Commission. The Commission intends to continue to make the tool that currently exists (i.e. ARACHNE) available to all Member States free of charge. The costs of the licenses are covered by the Commission. It is more beneficial for the Member States to take advantage of ARACHNE, instead of developing their own tool, as:

- first and foremost, the intention is to have a single data-mining tool to increase data interoperability across Europe. Member States will have access to the data in two international databases- Orbis and World Compliance.
- the costs of developing a data-mining tool could be very high and the timeline for development and implementation will not allow for use as of the start of the implementation of the CAP post 2020;
- in case the tool is developed by the Member States, the Commission cannot ensure that the tool will operate similarly in all Member States to ensure level playing field. The intention is to have a single data mining tool.

6. EXAMPLE OF CHECKS

ARACHNE contains a comprehensive database of co-funded operations, based on data provided by programme managing authorities. It enriches this data with publicly available information (from Orbis and World Compliance databases, accessible through specific licences bought by the Commission) in order to identify, based on a set of pre-determined risk indicators, the operations, projects, beneficiaries, contracts and contractors that might entail risks of irregularities, fraud and conflicts of interest. In particular, ARACHNE can retrieve information on direct and indirect ownership, as well as ultimate ownership of entities, similar to the concept of ‘beneficial ownership’ contained in the Anti-Money Laundering Directive 1 (‘AML’). ARACHNE accesses that information in Orbis, which in turn browses national registers, including those set up to comply with the obligations under the AML. ARACHNE identifies risks based on more than one hundred pre-determined risk indicators, which are grouped into seven risk categories such as public procurement, contract management, eligibility rules, performance, funding, concentration, reputational and fraud alerts. Currently, ARACHNE is not linked to the IT system collecting information under the AML or EDES (Early Detection and Exclusion System). The Commission is looking into the possibility to link ARACHNE to other systems.

² and in applications for Non-IACS interventions.

In particular, ARACHNE can highlight possible links between various stakeholders in a project by crosschecking worldwide company register data. ARACHNE also contains risk indicators providing information on the involvement of economic operators in sanctions, enforcement and adverse media lists, together with links to the original sources. ARACHNE highlights projects involving entities and individuals are associated with different — suspected — crimes, such as money laundering, fraud, organized crime, bribery, embezzlement or tax evasion. In addition, ARACHNE can provide concentration alerts by detecting whether an entity is acting as a beneficiary, contractor or project partner for multiple projects and contribute to identify, for instance, the risk of double-financing. In respect of the SME status, ARACHNE can help identify links between companies, so there can be a strong indication whether a company is an SME or not.

Thus, the tool enables more efficient controls when assessing the aid applications/payment claims under the CAP for issues such as: conflict of interests and genuine farmer. The tool will also be very useful to check circumvention of rules as per Article 60 of the Horizontal Regulation. Thus, the tool could be used for part of the controls necessary to apply the capping for direct payments under Article 15 of the proposal for the CAP Strategic Plan Regulation.

7. PERIOD FOR IMPLEMENTATION

The single data-mining tool is already in place and all Member States would have access from the start of the entry into force of the CAP post 2020 regulations. No transitional period for its implementation is foreseen. The Commission would like to encourage more Member States to start using ARACHNE as a pilot for EAFRD for the **current programming period** (2014-2020) in order to acquaint themselves with the tool and its functionalities.

The Commission wants to work closely with the Member States to ensure that the data-mining tool is as useful as possible for the CAP. In addition, the Commission can organise a demonstration of the functionalities and of the checks that can be performed in ARACHNE.