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WORKING PAPER

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CONTRIBUTION

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 - Comments from the Latvian delegation

Delegations will find attached comments from the Latvian delegation on the voted EP amendments on the proposed Horizontal Regulation.

ANNEX

Proposed Horizontal Regulation: views of delegations on EP's amendments (doc. 12146/20)

Comments from Member State: Latvia

AM	Article	Acceptable	Not acceptable (explain why not)	Possibly acceptable subject to re-drafting (provide drafting suggestions)	Comments
272	2(1)c & ca-cf		(cb) – not acceptable According to Art.2 of CAP SP regulation only specific parts and Articles of CPR regulation applies to support financed under CAP SP regulation. CPR regulation is not applicable to whole CAP, meaning direct support under EAGF and Market measures, only EAFRD. (cd) – not acceptable	Presidency compromise text 11604/20 as from 9 October 2020 is supported.	

			According to Art.2 of CPR point (30) "serious deficiency" means a deficiency in the effective functioning of the management and control system of a programme for which significant improvements in the management and control systems are required and where any of the key requirements 2, 4, 5, 9, 12, 13 and 15 referred to in Annex X, or two or more of the other key requirements are assessed into categories 3 and 4 of that Annex. Annex X includes key requirements of management and control systems and their classification. However, Audit authority is mentioned in this annex. EAFRD and EAGF governance structure does not include Audit authority.		
39	3(1) -a (new)	Acceptable			
40	3(1)a	Acceptable			
41	3(1)a point a (new)	Acceptable			

43	3(1)b			COM proposal supported.	
46	6(1)	Acceptable			
47	7(1)		Reference to Article 86(3) is not relevant here as Article 7 relates to technical assistance on the initiative of the Commission, whereas Art. 86(3) of CAP SP regulation concerns technical assistance at the Member States initiative.	The additional part referring to EAFRD contribution shall be deleted.	
273/rev	8		Additional tasks for Paying Agency are not supported.	Presidency compromise text 11604/20 as from 9 October 2020 is supported.	
274	11		Proposed amendments regarding the tasks of Certifying body are not clear, even more, such a specific additional requirement for Certifying body could lead to higher costs for MS.		
75	12 a (new)		Provisions, which are significant for MS should be adopted with implementing acts instead of delegated acts.	Delegated acts should be replaced with implementing acts.	
76	14(1) sub 1	Acceptable			Parliament’s proposal to establish agricultural crisis reserve in the budget of the CAP from

					additional amount could be supported and this budget line, should be avail-able only to the CAP. Nevertheless, if the reserve is used, primarily, it should be refilled using existing revenue assigned to the EAGF, margins available under the EAGF sub-ceiling, and only if all these elements will not be sufficient, then financial discipline mechanism may be applied as last resort.

77	14(1) sub 2		We do not support the proposed Amendment 77 on Article 14 regarding the measures to be funded by the reserve. We are of the opinion that crisis reserve should be used only in the case of crises affecting the agricultural production or distribution, and not for the purpose of market management or stabilisation.	The appropriations for the reserve shall be entered directly in the Un-ion's budget **and deployed, in the financial year or years for which additional support is required, in order to fund** ~~**the following measures:**~~ **exceptional measures under Chapter I, Part V of Regulation (EU) No 1308/2013.** ~~**(a) measures to stabilise agri-cultural markets under Articles 8 to 21 of Regula-tion (EU) No 1308/2013;**~~ ~~**(b) exceptional measures un-der Chapter I, Part V of Regulation (EU) No 1308/2013;**~~ ~~**(c) measures to complement the income stabilisation tools referred to in Article 70 of Regulation (EU) …/… CAP Strategic Plans Reg-ulation] in the event of market crises occurring with a frequency higher than a predefined sector-specific threshold.**~~	
78	14(1) sub 2 a (new)	Acceptable			
79 & 242	14(1) sub 3	Acceptable			
80	14(2) sub -1 (new)	Acceptable			
81	14(2) sub 1	Acceptable			

82 & 244	14(2) sub 1 a (new)	Acceptable			
83	14(2) sub 2	Acceptable			
84 & 247	14(2) sub 3	Acceptable			
85	15(1) sub 1	Acceptable			
86	15(1) sub 1 a (new)	Acceptable			LV supports EP proposal we consider that current period approach should be maintained Financial discipline shall only apply to direct payments in excess of EUR 2 000.
87	19(6)	Acceptable			
92	23(2)	Acceptable			
93	29(1) sub 1 point a	Acceptable			
94	29(1) sub 1 point b	Acceptable			
95	29(3)	Acceptable			
99	31(1)		Not acceptable, as according to Art. 121 of CAP SP regulation, there is only 1 type of reports foreseen for the MS to be	COM proposal supported.	

			submitted, namely Annual Performance reports		
100	31(3)		Not acceptable, as according to Art. 121 of CAP SP regulation, there is only 1 type of reports foreseen for the MS to be submitted, namely Annual Performance reports	COM proposal supported.	
101	32(1)	Acceptable			N+3 principle could be supported.
102	32(3)	Acceptable			N+3 principle could be supported.
103	32(4) sub 1 point a	Acceptable			N+3 principle could be supported.
276	38		Not acceptable, as Art. 129(1) of CAP SP regulation does not provide for any specific deadlines		
277	38 a (new)		Not acceptable. PARL proposal does not consider the issues MS has raised so far related to the deviation threshold for annual clearance. Besides the proposed Article mixes up conditions set up for annual clearance (outputs, expenditure)		

			and for performance review (milestones, targets).		
278	39		Not acceptable, as higher flexibility for MS should be provided with regards the threshold for deviations from targets and milestones.		
279	39 a (new)		Not acceptable, as considering all the conditions, constraints and the results-based approach already foreseen, such an additional limitation cannot be supported	Delete Art. 39a (new)	
224	40		Not acceptable, we prefer the wording “may”, instead of “shall”. Furthermore, provisions, which are significant for MS should be adopted with implementing acts instead of delegated acts.		
282	47		Proposed text is not acceptable. If Commission can rely on Certification Body work, then additional checks are not required.	Presidency compromise text 11604/20 as from 9 October 2020 is supported.	
146	53 a (new		As we understand from Commission, MS will not have the obligation to return to the EU budget 50% or 100% of the	~~**Article 53a**~~ ~~**Recoveries for non-compliance**~~ ~~**1. Member States shall request recovery from the beneficiary for any**~~	

			amounts not recovered within 4/8 years anymore. However, it is necessary to deter-mine the amount of ineligible expenditures, when the Member states may decide not to pursue recovery, so there will not be situations when the costs already in-curred and likely to arise (in total) are more than the amount to be re-covered. In order to ensure equal terms for all beneficiaries, this threshold should be the same in all Member States.	~~**undue payment following the occurrence of irregularities and other cases of non compliance by benefi-ciaries with the conditions of the interventions referred in the CAP Strategic Plan and bring legal proceedings to that effect where necessary.**~~ ~~**2. If the sum has not been re-covered within four years of the date of the recovery request, or within eight years if the recovery is being dealt with by the national courts, 50 % of the financial cost of the non-recovery shall be borne by the Member State concerned and 50 % shall be borne by the Union, without prejudice to the requirement that the Member State con-cerned is to continue the re-covery procedures in accordance with Article 57.**~~ ~~**3. On duly justified grounds, Member States may decide not to pursue recovery. A decision to that effect**~~	

				~~may be taken only in the following cases:~~ ~~(a) where the costs of recovery already incurred and the costs likely to be incurred total more than the amount to be recovered, which condition shall be considered to have been met if:~~ ~~(i) the amount to be recovered from the beneficiary in the context of an individual payment for an intervention, not including interest, does not exceed EUR 100; or~~ ~~(ii) the amount to be recovered from the beneficiary in the context of an individual payment for an intervention, not including interest, falls be-tween EUR 100 and EUR 250 and the Member State concerned applies a threshold equal to or higher than the amount to be recovered under its national law for not pursuing national debts;~~	

				~~(b) where recovery proves impossible owing to the insolvency, recorded and recognised under national law, of the debtor or the persons legally responsible for the irregularity.~~	
148	54(1 a) (new)	Acceptable			
159	57 a (new)		Not acceptable. In this case, the beneficiary always will be able to claim that the eligibility criteria are not understood correctly. Paying agency will have to introduce an administrative practise, which will lead to additional administrative burden.	***Article 57a*** ***Correction of errors*** ***1. Member States may opt to in-clude in their CAP Strategic Plans provisions providing beneficiaries with the right to modify or otherwise restore to compliance an administrative declaration or a request for aid or support they had previ-ously made, with no reduction or penalty imposed, if the beneficiary has committed a clerical error when re-porting their situation;*** ***~~(b) the beneficiary has misun-derstood the eligibility crite-ria, the commitments or other obligations concerning the allocation of aid or sup-port with regard to their situ-ation.~~*** ***This right to modify or restore to compliance shall apply whenever the mistake or omission is committed in***	

				good faith and is not deemed to constitute attempted fraud. ***The relevant national authorities shall be responsible for determining a beneficiary's 'good faith'.***	
182-202	Controls / penalties: Arts. 84-87		Art 84(3.a) – we cannot agree with increasing of originally proposed control sample rate of 1% to 5 %. It also will substantially increase control rate if compared with current period, thus increasing administrative burden for administration as well as for farmers. Art 85(1)(2)(ba) the non-compliance affects the working and employment conditions of the workers employed by the beneficiary.	The original Commission proposal is acceptable.	

			We do not agree with addition of such a condition. It means that contracts, wages, other employment conditions should be checked, but this is not exactly the responsibility of the Paying agency. Which, in turn, means that we will need to use services of other responsible control authorities, which definitely increases administrative burden of controls.		