



Council of the European Union
General Secretariat

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

Brussels, 08 January 2019

WK 14779/2018 ADD 10

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WORKING PAPER

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From:	General Secretariat of the Council
To:	Working Party on Financial Agricultural Questions
N° Cion doc.:	9634/18 + COR 1 + ADD 1
Subject:	Proposal for a Regulation on Financing, management and monitoring of the CAP - German contribution

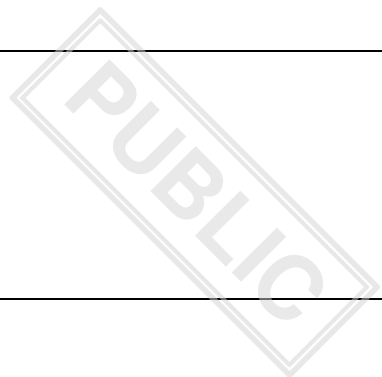
Following the request from the Presidency on 11 December 2018 (WK 14779/2018 INIT) for drafting suggestions on the above mentioned proposal, delegations will find in Annex the contribution received from the German delegation.

ANNEX

Article/paragraph concerned	Current text (Copy the relevant text from doc. 9634/18)	Possible new text (Indicate your drafting suggestions in " bold " for new text or " strikethrough " for deleted text)	Reason/justification (Explain the reasons / provide justification for the changes you propose)
Article 8 (2) last subparagraph	Member States shall not appoint any new additional paying agency after the date of entry into force of this Regulation.	By way of derogation from this subparagraph and where applicable, regions, which do not have a paying agency, may accredit one at any time.	In regionally organized MS, regions may have transferred their PA to another region on a voluntary basis by way of an Interstate Treaty. These regions need to have the possibility to appoint their own PA in case this cooperation terminates.
Article 8 (4) d)	(d) to promote and ensure harmonised application of Union rules.	(d) to promote and, where possible , ensure harmonised application of the Union rules.	Taking into account the constitutional provisions in federally organized member states the current text in Reg. 1306/2013, Art. 7 (4) c), should be kept. In Germany the Coordinating body is not in a position to “ensure” any action of a PA.
Article 8 (4), last subparagraph	The annual performance report provided by the coordinating body shall be covered by the scope of the opinion referred to in Article 11(1) and its transmission shall be accompanied by a management declaration covering the compilation entirety of thethat entire report.	The annual performance report transmitted by the coordination body shall be accompanied by a management declaration and the opinion referred to in Article 11 (1), each covering the compilation of the entire report.	Both the management declaration and the opinion of the CB only cover the compilation of the annual performance report. This interpretation has been confirmed by the Commission in the context of the AGRIFIN working party. It should be clarified in the legal text.

Article 9 (1) b)	(b) the accreditation of the coordinating body referred to in Article 8(4);	(b) the accreditation of the coordinating body referred to in Article 8(4);	Delete. Each PA might have its own Competent authority (CA). It would neither be possible to choose one Competent authority to fulfill this task nor to have one common accreditation carried out by all CA. Additionally it might create a conflict of interests where the CA of a PA should accredit the Coordinating body which should promote and/or ensure the harmonized application of Union rules by the PA.
Article 9 (2)	2. The competent authority shall, by way of a formal act, decide on the issuing or, following a review, the withdrawal of the accreditation of the paying agency and the coordinating body on the basis of an examination of the accreditation criteria to be adopted by the Commission in accordance with point (a) of Article 10(1). [...]	2. The competent authority shall, by way of a formal act, decide on the issuing or, following a review, the withdrawal of the accreditation of the paying agency and the coordinating body on the basis of an examination of the accreditation criteria to be adopted by the Commission in accordance with point (a) of Article 10(1). [...]	See comments on Article 9 (1) b) above.
Article 10 (2) a	(a) the procedures for issuing, withdrawing and reviewing accreditation of paying agencies and coordinating bodies, as well as the procedures for the supervision of the accreditation of paying agencies;	(a) the procedures for issuing, withdrawing and reviewing accreditation of paying agencies and coordinating bodies , as well as the procedures for the supervision of the accreditation of paying agencies;	See comments on Article 9 (1) b) above. As a compromise it might be clarified that the “accreditation of the Coordinating body” is meant with regard to Article 8 (4), penultimate subparagraph, only.

Article 11 (1) b)	(b) the Member States' governance systems put in place function properly;	(b) the internal control system of the Paying Agency put in place functions properly;	The Certification body (CB) itself is part of the governance system.
Article 11 (1) d)	(d) the expenditure for the measures laid down in Regulation (EU) No 1308/2013, Regulation (EU) No 228/2013, Regulation (EU) No 229/2013 and Regulation (EU) 1144/2014 for which reimbursement has been requested from the Commission is legal and regular.		We support the concept of the new delivery model in general. However, we reiterate our concern that limiting the CB's statement on the legality and regularity to specific measures might not be in line with Article 63 (6) c) of Reg. 2018/1046 (Financial Regulation) where no such limitation is foreseen. We recommend that the Council's Legal Service should be consulted.
Article 11 (2)	[...] It shall be operationally independent from the paying agency and the coordinating body concerned as well as from the authority which has accredited that agency and the bodies responsible for the implementation and the monitoring of the CAP.	[...] It shall be operationally independent from the paying agency and the coordinating body concerned as well as from the authority which has accredited that agency and the bodies responsible for the implementation and the monitoring of the CAP.	Without any definition of "the bodies responsible for the implementation and the monitoring of the CAP" this expression should be deleted.
Article 74 - 83	Chapter III Scrutiny of transactions	Chapter III Scrutiny of transactions	We support the justification brought forward by the Belgian delegation. The chapter with all articles should be deleted.
Article 96 – 98	Chapter IV - Transparency	Current legal text in Articles 111 ff of Reg. (EU) No. 1306/2013 should be maintained.	Current text is the result of an intensive process of redrafting transparency rules after the ECJ had declared previous rules invalid and included a public hearing, among others. Current provisions have been



			successfully implemented and work well. The proposed referral to the ESI fund regulation would require extensive changes in the national implementation of transparency. This goes against the aim of simplification and must be avoided.
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