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WORKING PAPER

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WORKING DOCUMENT

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 - Spanish comments on Articles 54 and 55

Delegations will find attached drafting suggestions received from the Spanish delegation on Articles 54 and 55 of the abovementioned proposal.

Following the articles categorisation in doc WK 1568/2019 INIT, the Spanish delegation wishes to discuss the above mentioned articles further in the WP AGRIFIN.



PROPOSAL REGARDING ARTICLES 54 AND 55 FOR THE REGULATION ON THE FINANCING, MANAGEMENT AND MONITORING OF THE CAP (HORIZONTAL REGULATION)

1. Background information

On the 1st of June, the European Commission submitted the legislative proposals leading to the Reform of the Common Agricultural Policy (CAP) after 2020, among which the Regulation on the financing, management and monitoring of the CAP (Horizontal Regulation) is included.

2. Proposal regarding articles 54 and 55.

A proposal is made to incorporate in the Horizontal Regulation draft, a European common payment procedure allowing the deduction of undue amounts arising from irregularities detected after having carried out a prior payment. This mechanism would allow to maintain a similar payment management to the current one, so that these amounts are recovered through deductions in any future intervention (payment).

For this purpose, it is proposed to include in "Article 54. Specific provisions of the EAGF" and in "Article 55.1: Specific provisions of the EAFRD", a new paragraph which reads as follows:

'Member States may deduct any undue amount arising from a pending irregularity, from any future payment to be made by the Paying Agency as set up this Section 3.Recoveries for non-compliance.'



RATIONALE:

In order to ensure the efficient management of payments and irregularities in agricultural funds, it is essential that paying agencies have the possibility of recovering the amounts arising from irregularities by deducting these amounts from any future payment as currently provided for by the regulations of the EU for the period 2014-2020 (Article 28 of Regulation 908/2014).

Paying Agencies manage the EU budget by means of mechanisms for clearance of accounts, financial management and payment periods different from those applicable in the national budget, so that the implementation of the mechanism for the management of irregularities recovery in force in the national regulations would present difficulties to guarantee the EU budget management in accordance with the provisions of the European regulations. It is considered that this recovery procedure of irregularities must therefore be based on a European common principle.

The mechanism for the recovery of undue amounts of future payments proposed would allow a beneficiary to receive a new payment generated by any eligible intervention in the European agricultural funds, even if the beneficiary has not yet returned an amount that, having been previously paid, is considered undue due to a irregularity detected. Both the payment of actions within the deadline set out by the EU regulations and the recovery of amounts, which were undue because of a detected irregularity, are thus ensured. This case is not allowed within the framework of the national regulations that require the recovery of the undue amount prior to carrying out a new payment.

This case gets more complex when retroactive procedures for the detection of irregularities are employed to the previous 4 years, as established by European Union regulations. This fact may generate a large amount of undue amounts that, managed under national regulations, would cause a precautionary standstill of new payments until the beneficiary does not pay the undue multi-year amount.



The fact that the new horizontal regulation proposal does not regulate debt management should not prevent the paying agencies from having mechanisms coordinated at the European level and sufficient instruments to be able to comply with the budgetary management rules of EU funds established in the regulation. Otherwise, the paying agencies would be obliged to manage the EU budget with mixed rules (EU rules to make payments and national rules to manage irregularities) which will undoubtedly not favour the simplification of procedures, will lead to delays in payments and will cause economic damages for beneficiaries subject to retroactive payments review, since these procedures are not provided for in the national regulations.