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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° prev. doc.:	9634/18 + COR 1 + ADD 1
Subject:	Proposal for a Regulation on Financing, management and monitoring of the CAP - Spanish comments on Article 56

Delegations will find attached a drafting suggestion received from the Spanish delegation on Article 56 of the above mentioned proposal.

TO INCLUDE IN POINT 4 (ANY OTHER BUSINESS) OF AGENDA:

BLOCK 6. REDRAFTING OF ARTICLE 56 OF HORIZONTAL REGULATION

1. Background information

The Presidency presented a document WK 1568/2018 (04 February 2019) on the categorisations of articles for the purpose of identifying further work proposal and suggested possible changes to the document.

2. Proposal regarding articles 56.

We think that the categorisation of block 6 should be modified and include article 56 in the category of redrafting (minor).

In the past days we have proposed to incorporate in the Horizontal Regulation basic act (articles 54 and 55) a European common payment procedure to allow the offsetting of undue amounts arising from irregularities. This procedure will allow to maintain a similar payment management to the current one, so that these amounts are recovered through deductions in any future intervention (payments).

We believe this possibility could also be included in the future implementing regulation to avoid major changes in the basic act. For this reason instead of amending the articles 54 and 55 of the Section 3.Recoveries for non-compliance, we propose to include in Article 56 this drafting suggestion:



Article 56 Implementing powers

The Commission shall adopt implementing acts laying down rules on the **offsetting of outstanding debts** and on forms of notification and communication to be made by the Member States to the Commission in relation to the obligations set out in this Section

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

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 Commission Implementing Regulation (EU) No 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 offsetting 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 an 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 number 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.