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WORKING PAPER

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WORKING DOCUMENT

From:	Presidency
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 - Presidency redrafting suggestions on outstanding Articles of the Horizontal Regulation

Delegations find attached a table with Presidency redrafting suggestions for the following Articles in the proposed Horizontal Regulation: 1(a) (Scope), 8(6) (Paying agencies and coordinating bodies), 11(1) (Certification bodies), 22 (Acquisition of satellite data), 30(5) (Interim payments), 39(1) (Suspension of payments in relation to the multi-annual performance monitoring), 40 (Suspension of payments in relation to deficiencies in the governance systems), 96(1), (2), (3) & (4) (Publication of information relating to beneficiaries), 98 (Implementing powers), 102(1) (Repeal), 104(2) (Entry into force and application).

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Proposal for a Regulation on the financing, management and monitoring of the CAP

Presidency redrafting suggestions for Articles: 1(a) (Scope), 8(6) (Paying agencies and coordinating bodies), 11(1) (Certification bodies), 22 (Acquisition of satellite data), 30(5) (Interim payments), 39(1) (Suspension of payments in relation to the multi-annual performance monitoring), 40 (Suspension of payments in relation to deficiencies in the governance systems), 96(1), (2), (3) & (4) (Publication of information relating to beneficiaries), 98 (Implementing powers), 102(1) (Repeal), 104(2) (Entry into force and application)

AT PRES text, 5 December 2018, 15046/18	Revised RO PRES text
<i>Article 1</i> Scope This Regulation lays down rules, in particular, on: (a) the financing of expenditure under the Common Agricultural Policy (CAP), including expenditure on rural development; (b) the management and control systems to be put in place by the Member States; (c) clearance and conformity procedures.	<i>Article 1</i> Scope This Regulation lays down rules, in particular, on: (a) the financing of expenditure under the Common Agricultural Policy (CAP), including expenditure on rural development; (b) the management and control systems to be put in place by the Member States; (c) clearance and conformity procedures.
<i>Article 8</i> Paying agencies and coordinating bodies 6. The paying agencies shall manage and ensure the control of the operations linked to public intervention for which they are responsible and they shall retain overall responsibility in that field. Where support is provided through a financial instrument which is implemented by the EIB or another international financial institution in which a Member State is a shareholder, the paying agency shall rely on the control report supporting the payment applications submitted by the EIB or another international institution.	<i>Article 8</i> Paying agencies and coordinating bodies 6. The paying agencies shall manage and ensure the control of the operations linked to public intervention for which they are responsible and they shall retain overall responsibility in that field. Where support is provided through a financial instrument which is implemented by the EIB or another international financial institution in which a Member State is a shareholder, the paying agency shall rely on the control report, <u>which the EIB or other international institution shall provide</u> supporting the payment applications submitted by the EIB or another international institution.

Article 11
Certification bodies

1. The certification body shall be a public or private audit body designated by the Member State for a minimum three year period, without prejudice to national law. Where it is a private audit body, and where the applicable Union or national law so requires, it shall be selected by the Member State by means of a public tendering procedure.

For the purposes of the first subparagraph of Article 63(7) of the Financial Regulation, the certification body shall provide an opinion, drawn up in accordance with internationally accepted audit standards, which shall establish whether:

- (a) the accounts give a true and fair view;
- (b) the Member States' governance systems put in place function properly;
- (c) the performance reporting on output indicators for the purposes of the annual performance clearance referred to in Article 52 and the performance reporting on result indicators for the multiannual performance monitoring referred to in Article 115 of Regulation (EU) .../... [CAP Strategic Plan Regulation], demonstrating that Article 35 of this Regulation is complied with, is correct;
- (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.

That opinion shall also state whether the examination calls into question the assertions made in the management declaration referred to in point(c) of Article 8(3).

Where support is provided through a financial instrument which is implemented by the EIB or another international financial institution in which a Member State is a shareholder, the certification body shall rely on

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- (a) the accounts give a true and fair view;
- (b) the Member States' governance systems put in place function properly;
- (c) the performance reporting on output indicators for the purposes of the annual performance clearance referred to in Article 52 and the performance reporting on result indicators for the multiannual performance monitoring referred to in Article 115 of Regulation (EU) .../... [CAP Strategic Plan Regulation], demonstrating that Article 35 of this Regulation is complied with, is correct;
- (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.

That opinion shall also state whether the examination calls into question the assertions made in the management declaration referred to in point(c) of Article 8(3).

Where support is provided through a financial instrument which is implemented by the EIB or another international financial institution in which a Member State is a shareholder, the certification body shall rely on

the annual audit report drawn up by the external auditors of those institutions.	the annual audit report drawn up by the external auditors of those institutions. <u>Those institutions shall provide the annual audit report to the Member States.</u>
<i>Article 22</i> <i>Acquisition of satellite data</i> The list of satellite data required for the area monitoring system referred to in point (c) of Article 64(1) shall be agreed by the Commission and the Member States in accordance with the specification prepared by each Member State. In accordance with point (b) of Article 7, the Commission shall supply that satellite data free of charge to the authorities competent for the area monitoring system or to suppliers of services authorised by those bodies to represent them. The Commission shall remain the owner of the satellite data and shall recover it on completion of the work. The Commission may entrust specialised entities to carry out tasks relating to techniques or working methods in connection with the area monitoring system referred to in point (c) of Article 64(1).	<i>Article 22</i> <i>Acquisition of satellite data</i> The list of satellite data required for the area monitoring system referred to in point (c) of Article 64(1) shall be agreed by the Commission and the Member States in accordance with the specification prepared by each Member State. In accordance with point (b) of Article 7, the Commission shall supply that satellite data free of charge to the authorities competent for the area monitoring system or to suppliers of services authorised by those bodies to represent them. The Commission shall remain the owner of the satellite data and shall recover it on completion of the work. The Commission may entrust specialised entities to carry out tasks relating to techniques or working methods in connection with the area monitoring system referred to in point (c) of Article 64(1).
<i>Article 30</i> <i>Interim payments</i> 4. Where financial instruments are implemented in accordance with Article 53(2)52 of Regulation (EU).../... [CPR], declarations of expenditures that include expenditure for financial instruments shall be submitted in accordance with the following conditions: (a) the amount included in the first declaration of expenditure shall need to have been previously paid to the financial instrument and may be up to 25% of the total amount of the CAP Strategic Plan contribution committed to the financial instruments under the relevant funding agreement; (b) the amount included in subsequent declarations of expenditures submitted during the eligibility period as defined in Article 80(3) of Regulation (EU) .../... [CAP	<i>Article 30</i> <i>Interim payments</i> 4. Where financial instruments are implemented in accordance with Article 53(2)52 of Regulation (EU).../... [CPR], declarations of expenditures that include expenditure for financial instruments shall be submitted in accordance with the following conditions: (a) the amount included in the first declaration of expenditure shall need to have been previously paid to the financial instrument and may be up to 25% of the total amount of the CAP Strategic Plan contribution committed to the financial instruments under the relevant funding agreement; (b) the amount included in subsequent declarations of expenditures submitted during the eligibility period as defined in Article 80(3) of Regulation (EU) .../... [CAP

Strategic Plan Regulation] shall include the eligible expenditure as referred to in [Article 74(5) CAP plan – eligibility rules or financial instruments]. 5. The amount included in the first declaration of expenditure, referred to in point (a) of paragraph 4, shall be cleared from Commission accounts no later than in the annual accounts for the last execution year for the relevant CAP Strategic Plan.	Strategic Plan Regulation] shall include the eligible expenditure as referred to in [Article 74(5) CAP plan – eligibility rules or financial instruments]. 5. <u>Amounts paid in accordance with point (a) of paragraph 4 shall be considered advances for the purpose of the last paragraph of Article 35.</u> The amount included in the first declaration of expenditure, referred to in point (a) of paragraph 4, shall be cleared from Commission accounts no later than in the annual accounts for the last execution year for the relevant CAP Strategic Plan.
<i>Article 39</i> <i>Suspension of payments in relation to the multi-annual performance monitoring</i> 1. In case of delayed or insufficient progress towards targets, as set out in the national CAP Strategic Plan and monitored in accordance with Articles 115 and 116 of Regulation (EU) .../...[CAP Strategic Plan Regulation], the Commission may ask the Member State concerned to implement the necessary remedial actions in accordance with an action plan with clear progress indicators, to be established in consultation with the Commission. The Commission may adopt implementing acts laying down further rules on the elements of action plans and the procedure for setting up the action plans. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3). 2. Where the Member States fails to submit or to implement the action plan referred to in paragraph 1 or if that action plan is manifestly insufficient to remedy the situation, the Commission may adopt implementing acts suspending the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30. The suspension shall be applied in accordance with the principle of proportionality to the relevant expenditure related to the interventions which	<i>Article 39</i> <i>Suspension of payments in relation to the multi-annual performance monitoring</i> 1. <u>Where In case of delayed or insufficient progress towards targets, as set out in the national CAP Strategic Plan and monitored in accordance with Articles 121a(3)115 and 116 of Regulation (EU) .../...[CAP Strategic Plan Regulation], the Commission may asks the Member State concerned to submit implement the necessary remedial actions in accordance with an action plan, the Member State shall establish, in consultation with the Commission, the intended remedial actions, including with clear progress indicators and the timeframe during which the progress has to be achieved, to be established in consultation with the Commission.</u> The Commission may adopt implementing acts laying down further rules on the elements of action plans and the procedure for setting up the action plans. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3). 2. Where the Member States fails to submit or to implement the action plan referred to in paragraph 1 or if that action plan is manifestly insufficient to remedy the situation, the Commission may adopt implementing acts suspending the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30. The suspension shall be applied in accordance with the principle of proportionality to the relevant expenditure related to the interventions which

were to be covered by that action plan. The Commission shall reimburse the suspended amounts when, on the basis of the performance review referred to in Article 121 of Regulation (EU) .../... [CAP Strategic Plan Regulation] satisfactory progress towards targets is achieved. If the situation is not remedied by the closure of the national CAP Strategic Plan, the Commission may adopt an implementing act definitively reducing the amount suspended for the Member State concerned. The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules on the rate and duration of suspension of payments and the condition for reimbursing or reducing those amounts with regard to the multi-annual performance monitoring. 3. The implementing acts provided for in paragraphs 1 and 2 shall be adopted in accordance with the advisory procedure referred to in Article 101(2). Before adopting those implementing acts, the Commission shall inform the Member State concerned of its intention and shall ask it to respond within a period which shall not be less than 30 days.	were to be covered by that action plan. The Commission shall reimburse the suspended amounts when, on the basis of the performance review referred to in Article 121 of Regulation (EU) .../... [CAP Strategic Plan Regulation] satisfactory progress towards targets is achieved. If the situation is not remedied by the closure of the national CAP Strategic Plan, the Commission may adopt an implementing act definitively reducing the amount suspended for the Member State concerned. The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules on the rate and duration of suspension of payments and the condition for reimbursing or reducing those amounts with regard to the multi-annual performance monitoring. 3. The implementing acts provided for in paragraphs 1 and 2 shall be adopted in accordance with the advisory procedure referred to in Article 101(2). Before adopting those implementing acts, the Commission shall inform the Member State concerned of its intention and shall ask it to respond within a period which shall not be less than 30 days.
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[Article 40]

Suspension of payments in relation to deficiencies in the governance systems

1. In case of serious deficiencies in the functioning of the governance systems, the Commission may ask the Member State concerned to implement the necessary remedial actions in accordance with an action plan with clear progress indicators, to be established in consultation with the Commission.

The Commission may adopt implementing acts laying down further rules on the elements of the action plans and the procedure for setting up the action plans. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

2. Where the Member State fails to submit or to implement the action plan referred to in paragraph 1 or if that action plan is manifestly insufficient to remedy the situation, the Commission may adopt implementing acts suspending the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30.

The suspension shall be applied in accordance with the principle of proportionality to the relevant expenditure effected by the Member State where the deficiencies exist, for a period to be determined in the implementing acts referred to in the first subparagraph, which shall not exceed 12 months. If the conditions for the suspension continue to be met, the Commission may adopt implementing acts prolonging that period for further periods not exceeding 12 months in total. The amounts suspended shall be taken into account when adopting the implementing acts referred to in Article 53.

3. The implementing acts provided for in this Article shall be adopted in accordance with the advisory procedure referred to in Article 101(2). Before adopting the implementing acts referred to in paragraph 2, the Commission shall inform the Member State concerned of its intention and shall ask it to respond within a period which shall not be less than 30 days.

~~*[Article 40]*~~

~~*Suspension of payments in relation to deficiencies in the governance systems*~~

1. In case of serious deficiencies in the functioning of the governance systems, the Commission may ask the Member State concerned to implement the necessary remedial actions in accordance with an action plan with clear progress indicators, to be established in consultation with the Commission.

The Commission may adopt implementing acts laying down further rules on the elements of the action plans and the procedure for setting up the action plans. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

2. Where the Member State fails to submit or to implement the action plan referred to in paragraph 1 or if that action plan is manifestly insufficient to remedy the situation, the Commission may adopt implementing acts suspending the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30.

The suspension shall be applied in accordance with the principle of proportionality to the relevant expenditure effected by the Member State where the deficiencies exist, for a period to be determined in the implementing acts referred to in the first subparagraph, which shall not exceed 12 months. If the conditions for the suspension continue to be met, the Commission may adopt implementing acts prolonging that period for further periods not exceeding 12 months in total. The amounts suspended shall be taken into account when adopting the implementing acts referred to in Article 53.

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Before adopting the implementing acts referred to in paragraph 2, the Commission shall inform the Member State concerned of its intention and shall ask it to respond within a period which shall not

The implementing acts determining the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30 shall take account of the implementing acts adopted under the first subparagraph of this paragraph.).	be less than 30 days. The implementing acts determining the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30 shall take account of the implementing acts adopted under the first subparagraph of this paragraph.
<i>Article 96</i> <i>Publication of information relating to beneficiaries</i> 1. Member States shall ensure annual ex-post publication of the beneficiaries of the Funds for the purposes of in accordance with [Article 44(3)-(5) of Regulation (EU) .../...CPR Regulation] and in accordance with paragraphs 2, 3 and 4 of this Article. 2. [Article 44(3)-(5) of Regulation (EU) .../...CPR Regulation] shall apply in respect of beneficiaries of EAFRD and EAGF, where relevant; however, the amounts corresponding to the national contribution and the Union co-financing rate, as provided for in points (h) and (k) of Article 44(3) of that Regulation shall not apply to EAGF. 3. For the purposes of this Article: – "operation" means measure or intervention; – "location" means the municipality where the beneficiary is resident or is registered and, where available, the postal code or the part thereof identifying the municipality".	<i>Article 96</i> <i>Publication of information relating to beneficiaries</i> 1. Member States shall ensure annual ex-post publication of the beneficiaries of the Funds for the purposes of in accordance with [Article 44(3)-(45) of Regulation (EU) .../...CPR Regulation] and in accordance with paragraphs 2, 3 and 4 of this Article. 2. [Article 44(3) <u>points (a), (b), (d), (e), (h), (i), (l) and Article 44(45)</u> of Regulation (EU) .../...CPR Regulation] shall apply in respect of beneficiaries of EAFRD and EAGF. <u>Article 44 (3) point (k) of Regulation (EU) .../...CPR Regulation shall apply to EAFRD, where relevant; however, the amounts corresponding to the national contribution and the Union co-financing rate, as provided for in points (h) and (k) of Article 44(3) of that Regulation shall not apply to EAGF.</u> 3. For the purposes of this Article: – "operation" means measure or <u>type of</u> interventions; – <u>“total cost of the operation” means the amounts of payment corresponding to each measure or type of interventions financed by the EAGF or the EAFRD received by each beneficiary in the financial year concerned. As regards the payments corresponding to the types of interventions financed by the EAFRD, the amounts to be published shall correspond to the total public funding, including both the Union and the national contribution;</u> – "location <u>indicator or geolocation for the operation</u>" means the municipality where the beneficiary is resident or is registered and, where available, the postal code or the part thereof identifying the

4. The information referred to in Article 44(3)-(5) of that Regulation shall be made available on a single website per Member State. It shall remain available for two years from the date of the initial publication. Member States shall not publish the information referred to in points (a) and (b) of Article 44(3) of the Regulation (EU) .../...[CPR Regulation] if the amount of aid received in one year by a beneficiary is equal to or less than EUR 1 250.	municipality". 4. The information referred to in Article 44(3)-(45) of that Regulation shall be made available on a single website per Member State. It shall remain available for two years from the date of the initial publication. Member States shall not publish the information referred to in points (a) and (b) of Article 44(3) of the Regulation (EU) .../...[CPR Regulation] if the amount of aid received in one year by a beneficiary is equal to or less than an EUR 1 250.
<i>Article 98</i> <i>Implementing powers</i> The Commission shall adopt implementing acts laying down rules on: (a) the form, including the way of presentation by measure or intervention, and the timescale of the publication provided for in Articles 96 and 97; (b) the uniform application of Article 97; (c) the cooperation between the Commission and Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).	<i>Article 98</i> <i>Implementing powers</i> The Commission shall adopt implementing acts laying down rules on: (a) the form, including the way of presentation by measure or <u>type of</u> intervention, and the timescale of the publication provided for in Articles 96 and 97; (b) the uniform application of Article 97; (c) the cooperation between the Commission and Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).
<i>Article 102</i> <i>Repeal</i> 1. Regulation (EU) No 1306/2013 is repealed. However: (a) Article 5, Article 7(3), Articles 9, 34, Article 35(4), Articles 36, 37, 38, 43, 51, 52, 54, 110 and 111 of Regulation (EU) No 1306/2013 and the relevant implementing and delegated rules shall continue to apply in relation to expenditure incurred and payments made for the agricultural financial	<i>Article 102</i> <i>Repeal</i> 1. Regulation (EU) No 1306/2013 is repealed. However: (a) Article 5, Article 7(3), Articles 9, <u>21</u>, 34, Article 35(4), Articles 36, 37, 38, 43, 51, 52, 54, <u>59, 67, 68, 70, 71, 72, 73, 74, 75, 77, 91, 92, 93, 94, 95, 96, 97, 99, 100, 102(2)</u>, 110 and 111 of Regulation (EU) No 1306/2013 and the relevant implementing and delegated rules shall continue to apply in

year 2020 and before as regards the EAGF, and as regards the EAFRD in relation to expenditure incurred and payments made for rural development programmes approved by the Commission under Regulation (EU) No 1305/2013,

- (b) Article 69 of Regulation (EU) No 1306/2013 shall continue to apply in relation to expenditure incurred and payments made for operations implemented pursuant to Regulation (EU) No 1307/2013 and rural development programmes approved by the Commission under Regulation (EU) No 1305/2013 and other CAP measures as laid down in Chapter I of Title II of Regulation (EU) No 1306/2013 implemented before the date of entry into force of this Regulation, Regulation (EU) .../...[CAP Strategic Plan Regulation] and Regulation (EU) No 1308/2013 as amended by Regulation (EU) .../...of the European Parliament and of the Council¹.
- (c) **Article 54(2) of Regulation (EU) No 1306/2013 shall continue to apply in relation to revenue declared for rural development programmes approved by the Commission under Regulation (EU) No 1305/2013, Regulation (EC) 1698/2005 and Regulation 27/2004 (Transitional Rural Development Instrument).**

2. References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in the Annex.

relation to expenditure incurred and payments made for **operations implemented pursuant to Regulation (EU) No 1307/2013 in calendar year 2020 and before and for the remaining measures financed under the agricultural financial year 2020 and before as regards the EAGF until the entry into application of this Regulation**, and as regards the EAFRD in relation to expenditure incurred and payments made for rural development programmes approved by the Commission under Regulation (EU) No 1305/2013.

- (b) Article 69 of Regulation (EU) No 1306/2013 shall continue to apply in relation to expenditure incurred and payments made for operations implemented pursuant to Regulation (EU) No 1307/2013 and rural development programmes approved by the Commission under Regulation (EU) No 1305/2013 and other CAP measures as laid down in Chapter I of Title II of Regulation (EU) No 1306/2013 implemented before the date of entry into force of this Regulation, Regulation (EU) .../...[CAP Strategic Plan Regulation] and Regulation (EU) No 1308/2013 as amended by Regulation (EU) .../...of the European Parliament and of the Council².
- (c) **Article 54(2) of Regulation (EU) No 1306/2013 shall continue to apply in relation to revenue declared for rural development programmes approved by the Commission under Regulation (EU) No 1305/2013, Regulation (EC) 1698/2005 and Regulation 27/2004 (Transitional Rural Development Instrument).**

2. References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in the Annex.

¹ Regulation (EU) .../... of the European Parliament and of the Council of [...] [...] (OJ L [...], [...], p. [...]).

² Regulation (EU) .../... of the European Parliament and of the Council of [...] [...] (OJ L [...], [...], p. [...]).

<i>Article 104</i> <i>Entry into force and application</i> 1. This Regulation shall enter into force on the day following that of its publication in the <i>Official Journal of the European Union</i>. It shall apply from 1 January 2021. 2. However, Articles 7, 10, 18, 19, 35, 36, 37, 38, 39, 40, 43, 51, 52, 53 and 54 shall apply to expenditure effected from 16 October 2020 as regards the EAGF, and as regards the EAFRD to expenditure effected under Regulation (EU) No.../... [CAP Strategic Plan Regulation] This Regulation shall be binding in its entirety and directly applicable in all Member States.	<i>Article 104</i> <i>Entry into force and application</i> 1. This Regulation shall enter into force on the day following that of its publication in the <i>Official Journal of the European Union</i>. It shall apply from 1 January 2021. 2. However, Articles 7, 10, 18, 19, 35, 36, 37, 38, 39, 40, 43, 51, 52, 53 and 54 shall apply to expenditure effected from 16 October 2020 as regards the EAGF, and as regards the EAFRD to expenditure effected under Regulation (EU) No.../... [CAP Strategic Plan Regulation] This Regulation shall be binding in its entirety and directly applicable in all Member States.
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