



**COUNCIL OF  
THE EUROPEAN UNION**

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from: Presidency

to: Council

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No. Cion prop.: 15396/11 + REV 1, REV 2 (NL), REV 3 - COM(2011) 625 final/3

15425/11 + REV 1 (en, fr, de) - COM(2011) 627 final/2

15426/11 + REV 1 (en, fr, de) - COM(2011) 628 final/2

15397/2/11 REV 2 - COM(2011) 626 final/3, 14477/12 - COM(2012) 535 final

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Subject: Proposal for a Regulation of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (*CAP reform*)

Proposal for a Regulation of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural development (EAFRD) (*CAP Reform*)

Proposal for a Regulation of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy (the horizontal regulation) (*CAP Reform*)

Proposal for a Regulation of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products (Single CMO Regulation) (*CAP Reform*)

- *Presidency compromise*

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Delegations will find attached the final Presidency compromise on the above proposals. This compromise completes or amends the earlier Presidency compromise text (doc. 7539/13). New changes are shown in ***bold italic***.

The Council is invited to confirm at its session on 18-19 March 2013 that the consolidated draft regulations (docs 7183/13 + COR1, ADDs 1+2, 7329/13, 7304/13 and 7303/13) as amended and completed by the Presidency compromise set out in docs. 7539/13 + ADD 1 constitute a Council General Approach.

Direct Payments

Article 17(1) and (2):

1. In 2014 and 2015, Bulgaria and Romania may use national direct payments in order to complement payments granted under the basic payment scheme ~~or the single area payment scheme~~ referred to in Chapter 1 of Title III and, in the case of Bulgaria, also to complement payments granted under the crop specific payment for cotton referred to in Chapter 2 of Title IV.
2. The total amount of complementary national direct payments to the basic payment scheme ~~or the single area payment scheme~~ which may be granted in respect of 2014 and 2015 shall not exceed the amounts set out in point B of Annex V for each of those years.

New Article 17c: Transitional National Aid:

1. *The Member States applying the single area payment scheme according to Article 28c may decide to grant transitional national aid in 2015-2020.*
2. *The transitional national aid may be granted to farmers in sectors in respect of which this aid, or in the case of Bulgaria and Romania, Complementary National Direct Payments were granted in 2013.*
3. *The conditions for granting the aid shall be identical to those authorised for the granting of payments pursuant to Articles 132(7) or 133a of Regulation (EC) 73/2009 in respect of 2013, with exception of the reduction of the payments applied due to the modulation according to Article 7 and 10 of that Regulation.*

4. *The total amount of aid that may be granted to farmers in any of the sectors referred to in paragraph 2 shall be limited by the following percentage of the sectoral financial envelopes as authorised by the Commission according to Articles 132(7) or 133a(5) of Council Regulation 73/2009 in 2013:*

- *70% in 2015*
- *60% in 2016*
- *50% in 2017*
- *40% in 2018*
- *30% in 2019*
- *20% in 2020*

*For Cyprus this percentage shall be calculated on the basis of the sector specific financial envelopes as set out in Annex XVIIa of Council Regulation (EC) 73/2009.*

5. *Paragraph 3 shall not apply to Cyprus.*

6. *Member State shall notify the decisions referred to in paragraph 1 to the Commission in the latest by 31 March each year. The notification shall include the following:*

- (a) the financial envelope per each sector*
- (b) the maximum rate of transitional national aid where appropriate.*

7. *Member States may decide, on the basis of objective criteria and within the limits pursuant to paragraph 4, on the amounts of transitional national aid to be granted.*

**Article 21(1):**

1. Payment entitlements shall be allocated to farmers if they apply for allocation of payment entitlements under the basic payment scheme by the date in 2014 to be set in accordance with point (d) of Article 78 of Regulation (EU) No... [HRZ] except in case of *force majeure* or exceptional circumstances. The number of payment entitlements shall be equal to the number of eligible hectares which they declare in accordance with Article ~~25(2)73(1)(a)~~ of ~~Regulation (EU) No [...]~~ [HZR].

By way of derogation from the first subparagraph, a Member State may decide that the number of payment entitlements shall be equal to the number of eligible hectares which the farmer declared in accordance with Article 35 of Regulation (EC) No 73/2009 in either 2012, 2013 or 2014.

**Article 21(2a):**

- 2a. Except in the case of *force majeure* or exceptional circumstances, the number of payment entitlements allocated per farmer shall be equal to the number of eligible hectares, which the farmer declares in accordance with Article ~~25(2) 73(1)(a) of Regulation (EU) No [...]~~ ~~[HZR]~~ ~~for 2014~~.

**Article 21(2b), first subparagraph:**

- 2b. By way of derogation from paragraph 2a, where the total number of hectares declared in a Member State in accordance with Article ~~25(2) 73(1)(a) of Regulation (EU) No [...]~~ ~~[HZR]~~ for 2014 entails an increase of more than ~~45%~~ 35% of the total number of eligible hectares declared in 2009, *or in the case of Croatia the total number of eligible hectares declared in 2013*, in accordance with Article 35 of Regulation (EC) No 73/2009, Member States may limit the number of payment entitlements to be allocated in 2014 to *either 135% or 145%* of the total number of hectares declared in 2009, *or in the case of Croatia the total number of eligible hectares declared in 2013*, in accordance with Article 35 of Regulation (EC) No 73/2009.

**Article 21(2c):**

- 2c. By way of derogation from paragraph 2a, a Member State may decide to apply, for the purposes of establishing a number of payment entitlements a farmer shall receive, a reduction coefficient if eligible hectares declared by a farmer in accordance with Article ~~25(2) 73(1)(a) of Regulation (EU) No [...]~~ ~~[HZR]~~ consist of permanent grassland located in areas with difficult climate conditions, especially due to the altitude and other natural constraints like poor soil quality, steepness and water supply.

**Article 21(2d):**

2d. By way of derogation from paragraph 2a, a Member State may decide that the number of payment entitlements shall be equal to the number of eligible hectares which the farmer declares in accordance with Article ~~25(2) 73(1)(a) of Regulation (EU) No [...]~~ [HZR] and which were not hectares of vineyards in the calendar years 2011 or 2012.

**Article 22(3), new last subparagraph:**

However, if a Member State has decided to apply voluntary coupled support pursuant to Title IV of this Regulation such Member State may take into account the difference between the level of support granted in calendar year 2013 and the level of support to be granted in accordance with Title IV of this Regulation for the calculation of the increase referred to in the first subparagraph, provided that:

- (i) the voluntary coupled support pursuant to Title IV of this Regulation, is applied to a sector ~~in the same form as~~ ***which has been granted support*** in calendar year 2013 pursuant to Articles 52, 53(1) and 68(1)(b) of Regulation (EC) No 73/2009, and
- (ii) the amount per unit of this support is reduced as compared to the amount per unit of the support in 2013.

**Article 22(3a), new last subparagraph:**

However, if a Member State has decided to apply voluntary coupled support pursuant to Title IV of this Regulation such Member State may take into account the difference between the level of support granted in calendar year 2013 and the level of support to be granted in accordance with Title IV of this Regulation for the calculation of the increase referred to in the first subparagraph, provided that:

- (i) the voluntary coupled support pursuant to Title IV of this Regulation, is applied to a sector ~~in the same form as~~ ***which has been granted support*** in calendar year 2013 pursuant to Articles 68(1)(b), 68(1)(c), 126, 127, and 129 of Regulation (EC) No 73/2009, and
- (ii) the amount per unit of this support is reduced as compared to the amount per unit of the support in 2013.

**Article 22(5a)(a), new last subparagraph:**

However, if a Member State has decided to apply voluntary coupled support pursuant to Title IV of this Regulation such Member State may take into account the differences between the level of support granted in calendar year 2013 and the level of support granted to be granted in accordance with Title IV of this Regulation for the calculation of the increase referred to in the first subparagraph, provided that:

- (i) the voluntary coupled support pursuant to Title IV of this Regulation, is applied to a sector ~~in the same form as~~ ***which has been granted support*** in calendar year 2013 pursuant to Articles 52, 53(1) and 68(1)(b) of Regulation (EC) No 73/2009, and
- (ii) the amount per unit of this support is reduced as compared to the amount per unit of the support in 2013.

**Article 22(5a)(b), new last subparagraph:**

However, if a Member State has decided to apply voluntary coupled support pursuant to Title IV of this Regulation such Member State may take into account the difference between the level of support granted in calendar year 2013 and the level of support to be granted in accordance with Title IV of this Regulation for the calculation of the increase referred to in the first subparagraph, provided that:

- (i) the voluntary coupled support pursuant to Title IV of this Regulation, is applied to a sector ~~in the same form as~~ ***which has been granted support*** in calendar year 2013 pursuant to Articles 52, 53(1) and 68(1)(b) of Regulation (EC) No 73/2009, and
- (ii) the amount per unit of this support is reduced as compared to the amount per unit of the support in 2013.

**Article 22(5a)(c), new last subparagraph:**

However, if a Member State has decided to apply voluntary coupled support pursuant to Title IV of this Regulation such Member State may take into account the differences between the level of support granted in calendar year 2013 and the level of support granted to be granted in accordance with Title IV of this Regulation for the calculation of the increase referred to in the first subparagraph, provided that:

- (i) the voluntary coupled support pursuant to Title IV of this Regulation, is applied to a sector ***in the same form as which has been granted support*** in calendar year 2013 pursuant to Articles 68(1)(b), 68(1)(c), 126, 127, and 129 of Regulation (EC) No 73/2009, and
- (ii) the amount per unit of this support is reduced as compared to the amount per unit of the support in 2013.

**Article 22(5a)(d), new last subparagraph:**

Alternatively, such Member States may calculate the unit value of *a* payment entitlements in 2014 by dividing *the value of the entitlements* by a ~~figure corresponding to a~~ fixed percentage ~~of the value of the entitlements, including special entitlements, which the farmer owned on the date of submission of his application for 2013 under the single payment scheme, in accordance with Regulation (EC) No 73/2009 by the number of eligible hectares he declared in 2014 in accordance with Article 26(1) of this Regulation~~. That fixed percentage shall be calculated by dividing the ceiling of the basic payment scheme to be set in accordance with Article 19(1) or Article 20(2) of this Regulation for the year 2014 by the *amount of the payments in total value of all entitlements, including special entitlements, in the Member State for* 2013, under the single payment scheme *before reductions and exclusions*.

For the purposes of the calculations in the previous sub-paragraph, any Member State which applied the single payment scheme as provided for in Regulation (EC) No 73/2009 may *decide that the value of the payment entitlements owned by a farmer are increased by including the value of special entitlements which the farmer owned on the date of submission of his application for 2013 and may* also take into account the support granted for calendar year 2013 pursuant to Articles 52, 53(1), and 68(1)(b) of Regulation (EC) No 73/2009 provided that the Member State has decided not to apply the voluntary coupled support pursuant to Title IV of this Regulation to the relevant sectors.

However, if a Member State has decided to apply voluntary coupled support pursuant to Title IV of this Regulation such Member State may take into account the differences between the level of support granted in calendar year 2013 and the level of support granted to be granted in accordance with Title IV of this Regulation for the calculation of the increase referred to in the first subparagraph, provided that:

- (i) the voluntary coupled support pursuant to Title IV of this Regulation, is applied to a sector ~~in the same form as~~ **which has been granted support** in calendar year 2013 pursuant to Articles 52, 53(1) and 68(1)(b) of Regulation (EC) No 73/2009, and
- (ii) the amount per unit of this support is reduced as compared to the amount per unit of the support in 2013.

**Article 23(5)(aa):**

5. Member States may use the national or regional reserve to:
  - (aa) allocate payment entitlements to young farmers and/or farmers who commence their agricultural activity and/or in case of application of Article 18(3) for such farmers who hold less **payment entitlements than** eligible hectares ~~than payment entitlements~~ in 2014;

**Article 27:**

1. Payment entitlements may be transferred only to a farmer entitled to be granted direct payments in accordance with Article 9 established within the same Member State, except in the case of transfer by actual or anticipated inheritance.

***Member States may decide that*** the first subparagraph shall not apply to entitlements transferred in connection with a lease via private contract, in accordance with Art 21(3), in case the contract provides for the entitlements to revert to the lessor at termination of the lease.

However, even in the case of actual or anticipated inheritance, payment entitlements may be used only in the Member State where the payment entitlements were established



**Article 28c:**

1. Member States applying in the year 2013 the single area payment scheme laid down in Chapter 2 of Title V of Regulation (EC) No 73/2009 may under the conditions set out in this Regulation continue the application of that scheme until 31 December 2020 at the latest. During the period of application of the single area payment scheme, sections 1, 2 and, with the exception of Article 25(2), section 3 of this Chapter shall not apply to these Member States.

*1b. By way of derogation of paragraph 1a, Member States that decide to apply Article 28d as from 1 January 2018 at the latest may use, for the period during which they apply this Article, up to 20% of the annual financial envelope referred to in paragraph 1a to differentiate the single area payment per hectare.*

*In order to differentiate the single are payment per hectare, Member States shall take into account the support granted pursuant to Article 68(1)(b), 68(1)(c), 126, 127 and 129 of Regulation (EC) No 73/2009 in the year 2013.*

**Article 28d, new last subparagraph:**

*Member States shall notify to the Commission by 1 August 2013 their decision to continue applying the single area payment scheme in accordance with Article 28c and the end date of such application.*

**Article 28f:**

1. For each relevant year, the unit value of payment entitlements shall be calculated by dividing the national or regional ceiling established under Article 19 or 20, after application of the linear reduction provided for in Article 23(1), by the number of payment entitlements allocated and existing at national or regional level according to Article 28e in the relevant year of implementation of the basic payment scheme.

2. *Member States may limit the calculation of the unit value of payment entitlements provided for in paragraph 1 to an amount corresponding to no less than 10% of the national or regional ceiling established in accordance with Articles 19 or 20, after application of the linear reduction provided for in Article 23(1) or, where applicable, in Article 23(2).*

*Such Member States making use of the possibility provided for in the preceding subparagraph shall use the part of the ceiling which remains after the application of that paragraph to increase the value of payment entitlements in cases where the total value of payment entitlements held by a farmer under the basic payment scheme is lower than the total value of aid, excluding the Single Area Payment Scheme but including state aid, received by that farmer in any one of the three calendar years immediately preceding transition to the basic payment scheme.*

*To this end, the national or regional unit value of each of the payment entitlements of the farmer concerned shall be increased by a share of the difference between the total value of payment entitlements under the Basic Payment Scheme calculated in accordance with paragraph 2 and the total value of aid excluding the Single Area Payment Scheme but including state aid, received by that farmer in the year chosen by the Member State in the first sub-paragraph of this paragraph in accordance with Article 28c.*

*For the calculation of the increase, a Member State may also take into account the support granted pursuant to Articles 68(1)(b), 68(1)(c), 126, 127, and 129 of Regulation (EC) No 73/2009 in the year chosen by that Member State under the first subparagraph of this paragraph provided that the Member State has decided not to apply the voluntary coupled support pursuant to Title IV of this Regulation to the relevant sectors.*

*However, if a Member State has decided to apply voluntary coupled support pursuant to Title IV of this Regulation such Member State may take into account the difference between the level of support granted in the calendar year immediately preceding the transition to the basic payment scheme and the level of support to be granted in accordance with Title IV of this Regulation for the calculation of the increase referred to in the first subparagraph, provided that:*

- (i) the voluntary coupled support pursuant to Title IV of this Regulation, is applied to a sector which has been granted support as in the calendar year immediately preceding the transition to the basic payment scheme pursuant to Articles 68(1)(b), 68(1)(c), 126, 127, and 129 of Regulation (EC) No 73/2009, and*
- (ii) the amount per unit of this support is reduced as compared to the amount per unit of the support in the calendar year immediately preceding the transition to the basic payment scheme*

3. *When applying paragraph 2 Member States, acting in compliance with Union law, including with the principles of proportionality and non-discrimination, shall move towards approximating the value of the payment entitlements at national or regional level. To this end, Member States shall fix the steps to be taken and the method of calculation to be used and notify them to the Commission by 1 August of the year preceding the transition to the basic payment scheme. Those steps shall include annual progressive modifications of the payment entitlements in accordance with objective and non-discriminatory criteria.*

**Article 36(5), new last subparagraph:**

*By way of derogation from the first and second subparagraphs, Member States may allocate a lump sum amount which is based on the average size of farms taken over by young farmers during the most recent reference period, in that Member State or region.*

**Article 37(3), new last subparagraph:**

~~On the basis of either the estimated or the fixed percentage notified by Member States pursuant to paragraph 1, the Commission shall, by means of implementing acts, set the corresponding ceilings for the payment referred to in Article 36 on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).~~

*The Commission shall, by means of implementing acts, set the following on a yearly basis:*

- *the ceilings for the payment referred to in Article 36 on the basis of either the estimated or the fixed percentage notified by Member States pursuant to paragraph 1;*
- *the ceiling for the payment referred to in the last subparagraph of Article 36(5);*
- *the average size of farms held by young farmers.*

*Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).*

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SCMO

No further changes.

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**Rural Development**

*Article 18*

**Investments in physical assets**

3. Support under points (a) and (b) of paragraph 1[...] shall be limited to the maximum support rates laid down in Annex I. These maximum rates may be increased for young farmers, collective investments and integrated projects involving support under more than one measure, ***collective investments and projects resulting, through the merger of Producer Organisations, in an increase of at least 35% in the value of the products marketed or the number of members***, investments in areas facing [...] natural and other specific constraints as referred to in Article 33[...] and operations supported in the framework of the EIP for agricultural productivity and sustainability in accordance with the support rates laid down in Annex I. However, the maximum combined support rate may not exceed 90%.

*Article 64*

**Resources and their distribution**

- /1. The total amount of Union support for rural development under this Regulation for the period from 1 January 2014 to 31 December 2020, its annual breakdown and the minimum amount to be concentrated in less developed regions shall be fixed by the European Parliament and the Council, on a proposal from the Commission in accordance with the multiannual financial framework for the years 2014 to 2020 and the Interinstitutional Agreement between the European Parliament, the Council and the Commission on cooperation in budgetary matters and on sound financial management for the same period.
2. 0,25% of the resources referred to in paragraph 1 shall be devoted to technical assistance for the Commission as referred to in Article 51(1).

3. For the purpose of their programming and subsequent inclusion in the general budget of the Union, the amounts referred to in paragraph 1 shall be indexed at 2% per year.
4. The Commission shall, by means of an implementing act, make an annual breakdown by Member State of the amounts referred to in paragraph 1, after deduction of the amount referred to in paragraph 2 [...]. In making the annual breakdown the Commission shall take into account:
  - (a) objective criteria linked to the objectives referred to in Article 4; and
  - (b) past performance.
- (4a) The Commission shall subtract from the amounts allocated to each Member State in accordance with paragraph (4), funds transferred by that Member State under Article 14(2) of Regulation (EU) No DP/2012.
5. In addition to the amounts referred to in paragraph 4, the implementing act referred to in the same paragraph shall also include the funds transferred to the EAFRD in application of Articles 7(2) and 14(1) of Regulation (EU) No DP/2012 and the funds transferred to the EAFRD in application of Articles 10b and 136 of Council Regulation (EC) No 73/2009<sup>1</sup> in respect of calendar year 2013.
6. For the purposes of the allocation of the performance reserve referred to in Article 20(2) of Regulation (EU) No [CSF/2012], available assigned revenue collected in accordance with Article 45 of Regulation (EU) No HR/2012 for the EAFRD shall be added to the amounts referred to in Article 18 of Regulation (EU) No [CSF/2012]. It shall be allocated to Member States proportionally to their share of the total amount of support from the EAFRD./

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<sup>1</sup> OJ L 30, 31.1.2009, p.16

*Article 65*

**Fund contribution**

4. By way of derogation from paragraph 3, the maximum EAFRD contribution shall be:
- (a) 80% for the measures referred to in Articles 15, 28 and 36, for the LEADER local development referred to in Article 28 of Regulation (EU) No [CSF/2012] and for operations under Article 20(1)(a)(i). (...) This rate may be increased to a maximum of 90% for the programmes of less developed, the outermost regions, the smaller Aegean islands within the meaning of Regulation (EEC) No 2019/93 and transition regions;
  - (ab) 75% for operations contributing to the objectives of environment and climate change mitigation and adaptation under Articles 18, 23, 24, 29, 30, 31(3) **and (4)**, 32 and 35
  - (b) 100% for operations receiving funding from funds transferred to the EAFRD in application of Article 7(2) and Article 14 (1) of Regulation (EU) No DP/2012.
  - (ba) For Member States receiving financial assistance in accordance with Articles 136 and 143 TFEU, additional allocations will be subject to a co-financing rate of 100%.



**ANNEX I**

**Amounts and support rates**

Article	Subject	Maximum amount in EUR or rate	
16(8)	Advisory services, farm management and farm relief services	1.500 200.000	Per advice Per three years for the training of advisors
17(2)	Information and promotion activities	70%	Of the eligible costs of the action
17(3)	Quality schemes or agricultural products and foodstuffs	3.000	Per holding per year
18(3)	Investment in physical assets	50%  75%  75%  65%  40%	<p><u>Agricultural sector</u> Of the amount of eligible investment in less developed regions and in all regions whose GDP per capita for the 2007 - 2013 period was less than 75% of the average of the EU-25 for the reference period but whose GDP per capita is above 75% of the GDP average of the EU-27</p> <p>Of the amount of eligible investment in outermost regions</p> <p>Of the amount of eligible investment in Croatia for the implementation of Council Directive 91/676/EEC* within a maximum period of four years from the date of accession pursuant to Article 3(2) and Article 5(1) of that Directive</p> <p>Of the amount of eligible investment in the smaller Aegean islands</p> <p>Of the amount of eligible investment in other regions</p> <p>The above rates may be increased by 20 percentage points, provided that maximum combined support does not exceed 90%, for:</p> <ul style="list-style-type: none"> <li>- Young farmers setting up</li> <li>- Collective investments and (...) projects <b>resulting, through the merger of Producer Organisations, in an increase of at least 35% in the value of the produce marketed or the</b></li> </ul>

			<i>number of members.</i>
...	...	...	...
38 (4)	Crop, animal and plant insurance	75%	Of the insurance premium due
...	...	...	...

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**Horizontal Regulation**

**New provision 112b**

Member States [...] shall be responsible for implementing programmes and carrying out their tasks under this Regulation at the [...] level *they deem appropriate*, in accordance with the institutional, legal and financial framework of the Member State and subject to compliance with this Regulation and other relevant Union rules.

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## **Council declaration re Article 64 of the Rural Development Regulation**

Regarding Article 64, the Presidency takes note of the fact that there are divergent interpretations of the European Council conclusions of 7-8 February 2013.

The Council confirms that this issue will be addressed in the framework of the Council deliberation on the Proposal for a COUNCIL DECISION on the system of own resources of the European Union.

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