



**COUNCIL OF
THE EUROPEAN UNION**

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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	16 October 2013
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2013) 712 final
Subject:	Proposal for a COUNCIL REGULATION fixing an adjustment rate to direct payments provided for in Regulation (EC) No 73/2009 in respect of calendar year 2013 and repealing Commission Implementing Regulation (EU) No 964/2013

Delegations will find attached document [COM\(2013\) 712 final](#).

Encl.: [COM\(2013\) 712 final](#)



EUROPEAN
COMMISSION

Brussels, 16.10.2013
COM(2013) 712 final

2013/0339 (NLE)

Proposal for a

COUNCIL REGULATION

fixing an adjustment rate to direct payments provided for in Regulation (EC) No 73/2009 in respect of calendar year 2013 and repealing Commission Implementing Regulation (EU) No 964/2013

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Treaty on the Functioning of the European Union lays down the fundamental rule governing Union financing that the annual budget of the Union must comply with the Multiannual Financial Framework (MFF). With a view to ensuring that the amounts for the financing of the Common Agricultural Policy (CAP) comply with the annual sub-ceilings for market related expenditure and direct payments under heading 2 laid down in the Regulation to be adopted by the Council pursuant to Article 312(2) of the Treaty on the Functioning of the European Union, a financial discipline mechanism has been provided for in Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers¹. According to this mechanism, an adjustment of direct payments should be determined when the forecasts for direct payments and market related expenditure, taking into account any financial transfers between the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD), indicate that the annual sub-ceiling under heading 2 set out in the Financial Framework will be exceeded.

In drawing up the 2014 Draft Budget, the budgetary estimates for direct payments and market related expenditure showed that the sub-ceiling under heading 2 for financial year 2014, after financial transfers between EAGF and EAFRD, was likely to be exceeded. As a consequence, direct payments should be reduced in order to comply with the ceiling.

On this basis, the Commission presented a proposal for setting the adjustment rate for direct payments in respect of calendar year 2013², which had to be adopted by the European Parliament and the Council by 30 June 2013 in accordance with Article 11(1) of Regulation (EC) No 73/2009 as amended by Regulation (EU) No 671/2012 of the European Parliament and of the Council³. However, the European Parliament and the Council had not determined that rate by 30 June 2013. Therefore, the Commission has set the rate in the Commission Implementing Regulation (EU) No 964/2013 (⁴), pursuant to Article 18(4) of Council Regulation (EC) No 1290/2005 on the financing of the common agricultural policy⁵.

Article 18(5) of Regulation (EC) No 1290/2005 gives the possibility to the Commission to propose an adaptation of this rate on the basis of new information in its possession. The Council may adapt the adjustment rate by 1 December 2013. The updated forecasts for market related expenditure and direct payments of the Amending Letter to the 2014 Draft Budget show the need for a different amount of financial discipline. Therefore the adjustment rate should be proposed to be adapted.

¹ OJ L 30, 31.1.2009, p. 16.

² COM(2013)159 final.

³ OJ L 204, 31.07.2012, p. 11.

⁴ Commission Implementing Regulation (EU) No 964/2013 on fixing an adjustment rate to direct payments provided for in Regulation (EC) No 73/2009 in respect of calendar year 2013 (OJ L 268, 10.10.2013, p.5) .

⁵ OJ L 277, 21.10.2005, p. 1.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

This proposal implements the rules provided for in Article 11 of Council Regulation (EC) No 73/2009 and Article 18 of Council Regulation (EC) No 1290/2005. Prior consultation with the interested parties and the preparation of impact assessment were not needed.

3. LEGAL ELEMENTS OF THE PROPOSAL

This proposal amends the financial discipline adjustment rate set in Article 1 of Commission Implementing Regulation (EU) No 964/2013 in respect of calendar year 2013.

4. BUDGETARY IMPLICATION

The calculation of the financial discipline adapted adjustment rate is part of the preparation of Amending Letter to the 2014 Draft Budget in order to comply with the EAGF net ceiling, i.e. the sub-ceiling for market related expenditure and direct payment under Heading 2 for financial year 2014 after financial transfers between EAGF and EAFRD. The EAGF net ceiling for financial year 2014 is calculated based on the same principles as for the Commission Implementing Regulation (EU) No 964/2013. The Amending Letter No 2 to the Draft Budget 2014 includes an amount for the reserve for crises in the agricultural sector (EUR 424.5 million).

The Amending Letter estimates of budget appropriations for direct aids and market related expenditure show the need to reduce the direct payments that can be granted to farmers in respect of calendar year 2013 by EUR 902.9 million, compared to EUR 1 471.4 million established in the Draft Budget. The adapted adjustment rate necessary to respect the ceiling is 2.453658%. It has been calculated according to the same method as in Commission Implementing Regulation (EU) No 964/2013.

The application of this adjustment rate will result in the reduction of the amounts of direct payments for budget lines covering expenditure relating to aid applications submitted by farmers in respect of calendar year 2013 (financial year 2014).

Proposal for a

COUNCIL REGULATION

fixing an adjustment rate to direct payments provided for in Regulation (EC) No 73/2009 in respect of calendar year 2013 and repealing Commission Implementing Regulation (EU) No 964/2013

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy⁶, and in particular Article 18(4) and(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 25 March 2013 the Commission adopted a proposal for a Regulation of the European Parliament and of the Council on fixing an adjustment rate to direct payments provided for in Regulation (EC) No 73/2009 in respect of calendar year 2013⁷. The European Parliament and the Council had not determined this adjustment by 30 June, as provided for in Article 11(2) of Council Regulation (EC) No 73/2009⁸. Therefore, in accordance with Article 18(4) of Regulation (EC) No 1290/2005, the Commission has set the adjustment in Commission Implementing Regulation (EU) No 964/2013⁹.
- (2) The forecasts for the direct payments and market related expenditure of the Commission Amending Letter No 2 to the 2014 Draft Budget show the need to adapt the amount of financial discipline which was taken into account in the Draft Budget 2014. The Amending Letter No 2 to the 2014 Draft Budget has been established taking into account an amount of financial discipline of EUR 902.9 million, including an amount for the reserve for crises in the agricultural sector. The adjustment rate to the direct payments set in Implementing Regulation (EU) No 964/2013 should therefore be adapted, in accordance with Article 18(5) of Regulation (EC) No 1290/2005.

⁶ OJ L 209, 11.8.2005, p. 1.

⁷ COM(2013)159 final.

⁸ Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers (OJ L 30, 31.1.2009, p. 16).

⁹ Commission Implementing Regulation (EU) No 964/2013 on fixing an adjustment rate to direct payments provided for in Regulation (EC) No 73/2009 in respect of calendar year 2013 (OJ L 268, 10.10. 2013, p. 5).

- (3) As a general rule, farmers submitting an aid application for direct payments for one calendar year (N) are paid within a fixed payment period falling under the financial year (N+1). However, Member States have the possibility to make late payments, within certain limits, to farmers beyond this payment period without any time limits. Such late payments may fall in a later financial year. When financial discipline is applied for a given calendar year, the adjustment rate should not be applied to payments for which aid applications have been submitted in the calendar years other than that for which the financial discipline applies. Therefore, in order to ensure equal treatment of farmers, it is appropriate to provide that the adjustment rate should only apply to payments for which aid applications have been submitted in the calendar year for which the financial discipline is applied, irrespective of when the payment to farmers is made.
- (4) In the political agreement on the reform of Common Agricultural policy of 26 June 2013, it has been decided that financial discipline will apply to the direct payments in excess of EUR 2 000. Moreover it has also been agreed that the reimbursement of unused appropriations (if any) at the end of financial year would be paid to farmers the following year subject to the financial discipline. In order to ensure consistency, it is appropriate to set the same threshold over the years. The financial discipline should be applied in a similar way for calendar year 2013 to be consistent with what has been agreed to apply in the future; therefore, it is appropriate to provide for the application of the adjustment rate only for amounts in excess of EUR 2 000.
- (5) Article 11(3) of Regulation (EC) No 73/2009 lays down that in the framework of the application of the schedule of increments provided for in Article 121 of that Regulation to all direct payments granted in the new Member States within the meaning of Article 2(g) of that Regulation, the financial discipline should not apply to the new Member States until the beginning of the calendar year in respect of which the level of direct payments applicable in the new Member States is at least equal to the then applicable level of such payments in the other Member States. Since the direct payments are still subject to the application of the schedule of increments in calendar year 2013 in Bulgaria, Romania, the adjustment rate to be determined by the present Regulation should not apply to payments to farmers in these Member States.
- (6) Regulation (EC) No 73/2009 has been adapted by the Act of Accession of Croatia. Since Croatia is subject to the application of the schedule of increments provided for in Article 121 of Regulation (EC) No 73/2009 in calendar year 2013 the adjustment rate to be determined by the present Regulation should not apply to payments to farmers in Croatia.
- (7) To ensure that the adapted rate is applicable as of the date provided for by Regulation (EC) No 73/2009 when the payments to the farmer should start, this Regulation should apply from 1 December 2013.
- (8) The new adjustment rate should be taken into account for the calculation of the entire payment to be granted to a farmer for an aid application submitted in respect of calendar year 2013. For sake of clarity, Implementing Regulation (EU) No 964/2013 should therefore be repealed.

HAS ADOPTED THIS REGULATION:

Article 1

1. The amounts of direct payments within the meaning of Article 2(d) of Regulation (EC) No 73/2009 to be granted to a farmer in excess of EUR 2 000 for an aid application submitted in respect of calendar year 2013 shall be reduced by 2.453658%.
2. The reduction provided for in paragraph 1 shall not apply in Bulgaria, Romania and Croatia.

Article 2

Implementing Regulation (EU) No 964/2013¹⁰ is repealed.

Article 3

This Regulation shall enter into force on the [seventh] day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 December 2013.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

¹⁰ Commission Implementing Regulation (EU) No 964/2013 on fixing an adjustment rate to direct payments provided for in Regulation (EC) No 73/2009 in respect of calendar year 2013 (OJ L 268, 10.10.2013, p.5)

FINANCIAL STATEMENT		FS/13/			
		6.15.2013.1			
		DATE: 26.09.2013			
1. BUDGET HEADING: See budgetary forecast after adjustment (former modulation) and financial discipline per item below: 05 03 01 01 (SPS) 05 03 01 02 (SAPS) 05 03 01 03 (Separate sugar payment) 05 03 01 04 (Separate F & V payment) 05 03 01 05 (Specific support Art 68 – decoupled payment) 05 03 01 06 (Separate soft fruit payment) 05 03 02 06 (Suckler cow premium) 05 03 02 07 (Additional national suckler cow premium) 05 03 02 13 (Sheep and goat premium) 05 03 02 14 (Sheep and goat supplementary premium) 05 03 02 28 (Aid for silkworms) 05 03 02 39 (Additional amount for sugarbeet and cane pr.) 05 03 02 40 (Area aid for cotton) 05 03 02 44 (Specific support, Art 68 – coupled payment) 05 03 02 50 (POSEI – Community support programmes) 05 03 02 52 (POSEI – Aegean Islands) 05 03 10 Reserve for agricultural crises		APPROPRIATIONS: in EUR million 30 083 7 382 277 12 487 11 902 49 23 7 0.5 21 239 1089 407 18 424.5			
2. TITLE: Draft REGULATION OF THE COUNCIL amending Commission Implementing Regulation (EU) No 964/2013 on fixing an adjustment rate to direct payments provided for in Regulation (EC) No 73/2009 in respect of calendar year 2013					
3. LEGAL BASIS: Article 18(4) and (5) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy					
4. AIMS: This draft regulation adapts the financial discipline adjustment rate to be applied to direct payments to be granted to farmers for aid applications lodged in respect of calendar year 2013 on the basis of the new information available.					
5.	FINANCIAL IMPLICATIONS	12 MONTH PERIOD	CURRENT FINANCIAL YEAR	FOLLOWING FINANCIAL YEAR	
		(EUR million)	2013 (EUR million)	2014 (EUR million)	
5.0	EXPENDITURE	-902.9	n.a.	-902.9	
	- CHARGED TO THE EU BUDGET (REFUNDS/INTERVENTIONS)	+ 424.5		+ 424.5	
	- NATIONAL AUTHORITIES				
	- OTHER				
5.1	REVENUE				
	- OWN RESOURCES OF THE EU (LEVIES/CUSTOMS DUTIES)				
	- NATIONAL				
		2015	2016	2017	2018
5.0.1	ESTIMATED EXPENDITURE				
5.1.1	ESTIMATED REVENUE				
5.2 METHOD OF CALCULATION:					

	See Comments	
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?	n.a.
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?	n.a.
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?	NO
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?	NO
OBSERVATIONS:		
<p>The calculation of the financial discipline adapted rate is part of the preparation of Amending Letter to the 2014 Draft Budget in order to comply with the EAGF net ceiling, i.e. the sub-ceiling for market related expenditure and direct payment under Heading 2 for financial year 2014, after financial transfers between EAGF and EAFRD. The EAGF net ceiling for financial year 2014 is calculated based on the same principles as for the Commission Implementing Regulation (EU) No 964/2013.</p> <p>The Amending Letter estimates of budget appropriations for direct aids and market related expenditure show the need to reduce the direct payments that can be granted to farmers in respect of calendar year 2013 by EUR 902.9 million, compared to EUR 1 471.4 million established in the Draft Budget. It includes an amount for the reserve for crises in the agricultural sector (EUR 424.5 million). The adapted adjustment rate necessary to respect the ceiling is 2.453658%. It has been calculated according to the same method as for the Commission Implementing Regulation (EU) No 964/2013, i.e. taking into account that it is applied only to amounts in excess of EUR 2 000 and not in Bulgaria, Romania and Croatia because they are in the process of phasing-in in calendar year 2013.</p> <p>The estimated amounts of financial discipline per budget item are the following (in EUR million):</p>		
	05 03 01 01 (SPS)	717.1
	05 03 01 02 (SAPS)	103.2
	05 03 01 03 (Separate sugar payment)	5.8
	05 03 01 04 (Separate F & V payment)	0.2
	05 03 01 05 (Specific support Art 68 – decoupled payment)	11.5
	05 03 01 06 (Separate soft fruit payment)	0.2
	05 03 02 06 (Suckler cow premium)	22.2
	05 03 02 07 (Additional national suckler cow premium)	1.3
	05 03 02 13 (Sheep and goat premium)	0.3
	05 03 02 14 (Sheep and goat supplementary premium)	0.1
	05 03 02 28 (Aid for silkworms)	0.0
	05 03 02 39 (Additional amount for sugarbeet and cane pr.)	0.6
	05 03 02 40 (Area aid for cotton)	6.2
	05 03 02 44 (Specific support, Art 68 – coupled payment)	25.2
	05 03 02 50 (POSEI – Community support programmes)	8.7
	05 03 02 52 (POSEI – Aegean Islands)	0.3
<p>The regulation has budgetary implications in the sense that the estimates of budget appropriations for direct payments (before considering financial discipline) have been reduced by the amounts shown above following the application of the adapted adjustment rate of the present proposal. As a result, the requested appropriations for Chapter 05 03 (Direct aids) as given in point 1 of this financial statement for the budget items subject to financial discipline, ensure compliance with the EAGF net ceiling for financial year 2014 and the establishment of the amount for the reserve for crises.</p>		