



**COUNCIL OF
THE EUROPEAN UNION**

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"A" ITEM NOTE

From: General Secretariat of the Council
To: Council

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
- Adoption

1. On 16 October 2013, the Commission submitted the above proposal to the Council.
2. On 22 October 2013, the Working Party on Financial Agricultural Questions (AGRIFIN) completed the technical examination of the proposal.
3. On 28 October 2013, the Special Committee on Agriculture approved the Presidency revised text of the above draft Regulation, subject to its legal-linguistic revision (doc. 15193/13). In particular, it approved its new legal basis, which the Commission was able to accept with a Commission statement to be included in the Council minutes. The Greek, Italian, Cyprus, Latvian, Polish and Portuguese delegations indicated that they would abstain when voting on the above draft Regulation.

4. The Council is therefore invited to adopt the draft Regulation as set out in doc. 15397/13, with the statements reproduced in the Annex being included in the Council minutes.

COMMISSION STATEMENT

Following the adoption by the Commission on 16 October of the proposal for a Council Regulation to fix the adjustment rate for direct payments in respect of calendar year 2013, the Council took the view that the Commission proposal could be adopted on the basis of Article 43(3) TFEU and not using Article 18(5) of Council Regulation (EC) No 1290/2005 which is considered to be a "derived" legal basis.

The Commission declares that it considers that the use of Article 43(3) for fixing the adjustment rate for direct payments in respect of calendar year 2013 does not constitute a precedent for the future. As provided for in the future Horizontal Regulation, Article 43(2) TFEU will be the legal basis for fixing the rate for the reduction of direct payment in the framework of the financial discipline mechanism whereas possible adjustments of that rate prior to 1 December will be fixed by the Commission.

LATVIAN STATEMENT ON FINANCIAL DISCIPLINE IN 2013

Latvia abstains when voting on the Council Regulation fixing an adjustment rate to direct payments provided for in Regulation (EC) No 73/2009 in respect of calendar year 2013. Latvia strongly believes that the correction rate of financial discipline applied to direct payment sums for 2013 should be at the level of EUR 5000, therefore applying to those farmers who receive more than EUR 5000.

POLISH STATEMENT ON FINANCIAL DISCIPLINE IN 2013

During discussions in the Agriculture and Fisheries Council, Poland has consistently argued that the limit exempting those in receipt of direct payments from the financial discipline mechanism should be kept at EUR 5 000.

Bearing in mind the European Commission's statement¹ of 30 June 2003 and its initial proposal² of 25 March 2013, as well as the European Parliament's position³ of 12 June 2013 and the distribution of votes in the Council, Poland is of the opinion that the provisions of the European Commission Regulation⁴ of 9 October 2013 are difficult to understand or to accept politically. By lowering the threshold from EUR 5 000 to EUR 2 000, an extra million EU farmers, the vast majority from the less prosperous Member States, will see their direct payments reduced.

Poland takes the view that it would be reasonable to apply financial discipline to the same group of farmers as are affected by modulation, especially as financial discipline should be a one-off event in terms of the financial implications for the farmers affected.

¹ Declaration of the Commission concerning the application of the mechanism for financial discipline – Annex IV to 10961/03 of 30 June 2003.
² EC proposal, COM(2013) 159, 25 March 2013.
³ EP legislative resolution of 12 June 2013.
⁴ Commission Implementing Regulation (EU) No 964/2013 of 9 October 2013.