



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 13 December 2013  
(OR. en)**

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**"I/A" ITEM NOTE**

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**From:** General Secretariat of the Council  
**To:** SCA/Council

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**Subject:** Proposal for a Regulation of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (**first reading**)  
- Adoption of the legislative act (**LA + S**)  
= Statements

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**Statement by the Commission on the non-opinion clause**

The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5(4), subparagraph 2, point b), in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle, which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5(4), recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified.

**Statement by the Council on Article 5(4), subparagraph 2, point b) of Regulation (EU) No 182/2011 on Committee Procedure**

The Council, having regard to the Commission statement on the so called *non-opinion* clause, reiterates that Article 5(4), subparagraph 2, point b) of Regulation 182/2011 on Committee Procedure is not, and was not meant to be, an exception to a general rule.

It is up to the legislature to determine, in the basic act and in the light of the specific features of each case, whether or not to avail itself of the option made available by point (b) of the second subparagraph of Article 5(4), thus preventing the Commission from adopting a draft implementing act in the absence of an opinion from the committee. No legal considerations limit the use of this option. Unlike other provisions of the Regulation on Committee Procedure, Article 5(4) requires no specific justification for this choice.

**Statement by the Commission in relation to late payments made by the paying agencies to beneficiaries (Article 40)**

The European Commission declares that when it adopts rules on the reduction of reimbursement to the paying agencies in case of payment made to the beneficiaries after the latest possible date laid down by Union legislation, the scope of the current provisions related to late payments for EAGF will be maintained.

**Statement by the Commission on the level of implementation (Article 118)**

The European Commission confirms that in accordance with Article 4(2) TEU, the Union respects Member States' constitutional structures and, therefore, Member States are responsible for deciding at which territorial level they wish to implement the common agricultural policy, subject to respecting Union law and ensuring its effectiveness. This principle is applicable to all four Regulations of the CAP reform.