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Subject: Post-2020 CAP reform package  
*- Presidency drafting suggestions on environmental and climate-related aspects of the CAP*

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Delegations will find in the Annex Presidency drafting suggestions on environmental and climate aspects of the CAP for an exchange of views at the Special Committee on Agriculture on 12 November 2019.

Changes marked in yellow are compared to the last Romanian Presidency drafting suggestions published as 10103/19 REV 1 (CAP Strategic Plans Regulation) and 10135/19 (Horizontal Regulation).

Further changes compared to the latest drafting suggestions proposed to delegations in previous meetings are contained in the following Articles and paragraphs:

- CAP Strategic Plans Regulation: 4(1)(c)(ia), 4(1a), 13(4-5), 28(6), 44(2a), 44(4), 44(5), 44(7), 46(3), 46(3b), 46(4)(b), 65(5), 65(6), 65(8a), 68(3-5), 71(2), 71(4), 72(1), Annex III (in GAEC 9 and SMR 10);
  - Horizontal Regulation: 84(1), 85(1)(a), 85(2)(b), 86(1).
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## PRESIDENCY DRAFTING SUGGESTIONS ON ENVIRONMENTAL AND CLIMATE-RELATED ASPECTS OF THE CAP

On 5 November, the **Special Committee on Agriculture (SCA)** discussed the “Presidency discussion paper on environmental and climate-related aspects of the CAP – A common, ambitious and flexible green architecture” (13513/19). As a follow up and to make another step forward, the Presidency would like to present drafting suggestions for the relevant Articles.

### 1. Conditionality and controls (Articles 11- 12 + Annex III of Strategic Plans Regulation and Articles 84-87 of Horizontal Regulation)

Articles 11-12 and Annex III of Strategic Plan Regulation (SPR) have been discussed at technical level and the outcome seem to be acceptable for Member States. However, the question on the possible deletion of SMRs 7-9 concerning identification and registration of animals should still be further discussed. Many Member States supported the deletion of SMRs 7-9 but some Member States have indicated their opposition to the removal. The Presidency would like to ask the delegations their views on this question and whether a solution could be to maintain these SMRs but with reduced scope.

For **small farms**, a simpler control regime and certain exemptions for penalties of conditionality seem to be justified. The Presidency is suggesting that holdings qualifying for the payment for small farmers or holdings below a corresponding size limit determined by the Member States would benefit from such a simpler system.

For the sake of simplification, Member States would be given the necessary leeway in implementing the **controls and penalties on conditionality** (Articles 84-87 of the Horizontal Regulation). The penalties should also be proportional to the non-compliances detected. The draft text includes a clear legal basis according to which no administrative penalty needs to be applied in the case of a non-compliance that has no or only insignificant consequences for the achievement of the objective of the standard or requirement concerned.

## **2. The schemes for the climate and the environment (eco-schemes, Article 28)**

The Presidency is submitting new drafting suggestions to paragraphs 2 and 6 to clarify that if Member States decide to apply point (b) of paragraph 6 of Article 28, commitments can be made either on eligible hectares or livestock units.

The question on whether eco-schemes should be obligatory for Member States or not remains open. The Presidency paper presented in the SCA on 5 November included the following suggestion: instead of allocating 30% of Pillar II funding to the environmental and climate-related objectives, Member States should allocate a certain share from their *overall* CAP envelope (Pillar I and Pillar II) to these objectives. If such an approach is accepted, Member States could choose in which way they fulfil this required level of funding and, as a result, eco-schemes would not need to be mandatory for Member States.

## **3. Types of interventions for Rural Development (Pillar II)**

Article 65 is the main Article under rural development for environmental-climate purposes. Based on Member States' comments, the Presidency has made some drafting suggestions especially on the determination of payments, the need to ensure that commitments are different from eco-schemes under Article 28, revision clause if basic requirements will be changed, the duration of the commitments and the possibility to make payments also for other units than hectares. These changes will make it easier for Member States to apply this type of interventions and will increase the environmental ambition.

Some investments under Article 68 can provide environment and climate related benefits. The Presidency has also included certain additions and clarifications to the list of non-productive investments that can be counted as contributing to the environment and climate ambition. Also knowledge transfer and cooperation (including advisory services) offer good possibilities for Member States to enhance environmental and climate actions under the CAP Strategic Plans.

#### **4. Certain interventions linked to environment and climate related purposes under PO's operational programs (Articles 44 and 46)**

The operational programmes of the Producer Organisations (PO) should also contribute to reinforcing the environmental and climate ambition. The Presidency considers that 15% of expenditure of operational programs covering interventions linked to environmental and climate objectives would strike a good balance between opinions of Member States.

As an incentive, in order to encourage the uptake of the environmental and climate actions under the Producer Organisations, the Presidency is proposing that the 50% limit on Union Financial Assistance can be increased to 80% of the actual expenditure linked to the environmental and climate objectives, if the environmental and climate actions cover at least 20% of the expenditure under the operational programme. That would create an incentive for the Producer Organisations to aim for an even higher level of ambition.

The Romanian Presidency proposed that certain management commitments undertaken by the members of the Producer Organisations would be counted against the target of the Operational Programmes. As there would be a risk of double counting for environmental and climate actions, the Finnish Presidency considers that further discussion on point (aa) of Article 44(7) is needed.

#### **5. The definitions that especially concern environment and climate (Article 4)**

The Presidency has suggested amendments to the rules governing the eligibility of land to direct payments to ensure these rules do not hamper the environmental and climate ambition of the future CAP.

Moreover, the Presidency is suggesting that Member States would be able to restrict the eligibility of land for direct payments if the land would have become eligible as a result of conversion of non-agricultural land with a negative impact on environment. This has been reflected in the drafting suggestion to Article 4(c).

Considering the permanent grassland definition, the Presidency has maintained the approach taken in the Omnibus Regulation with some clarifications.

## **6. Advisory services linked to environment and climate related purposes (Article 13)**

A workshop on "Technical elements of the Farm Sustainability Tool for Nutrients (FaST)", organised jointly by the European Commission and the Finnish Presidency, was held on 29 October. This workshop was very useful since it increased Member States' understanding of the future tool, its integration into Member States' CAP Strategic Plans and the cooperation with the Commission in designing the tool.

However, following the SCA discussion on advisory services (Article 13) and especially the use of FaST, it is clear that (i) Member States support the integration of FaST into the farm advisory services rather than its inclusion in the conditionality requirements and (ii) many Member States have emphasized that it is not necessary to have detailed provisions in the basic act describing the scope and content of the tool. Further consideration is needed on the level of details required and on which level the necessary provisions will eventually be defined.

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**PRESIDENCY DRAFTING SUGGESTIONS FOR THE**

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing rules on support for strategic plans to be drawn up by Member States under the Common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Regulation (EU) No 1307/2013 of the European Parliament and of the Council**

*Article 4*

*Definitions and conditions to be formulated in the CAP Strategic Plans*

1. Member States shall provide in their CAP Strategic Plan **at least** the definitions of **and conditions for** agricultural activity, agricultural area, eligible hectare, ~~genuine farmer~~ and young farmer **on the following basis**:
  - (a) 'agricultural activity' shall be ~~defined~~ **determined** in a way that it includes both the production of agricultural products, **with the exception of fishery products**, listed in Annex I to the TFEU ~~including~~ **as well as** cotton and short rotation coppice, and maintenance of the agricultural area in a state which makes it suitable for grazing or cultivation, without preparatory action going beyond usual agricultural methods and machineries;

- (b) 'agricultural area' shall be ~~defined~~ **determined** in a way that it is composed of arable land, permanent crops and permanent grassland. The terms 'arable land', 'permanent crops' and 'permanent grassland' shall be further specified by Member States within the following framework:
- (i) 'arable land' shall be land cultivated for crop production or areas available for crop production but lying fallow, and include areas set aside in accordance with Articles 22, 23 and 24 of Council Regulation (EC) No 1257/1999<sup>1</sup>, with Article 39 of Council Regulation (EC) No 1698/2005<sup>2</sup>, with Article 28 of Regulation (EU) No 1305/2013 or with **Article 28 or** Article 65 **or GAEC 9 referred to in Annex III** of this Regulation;
- (ii) 'permanent crops' shall be non-rotational crops other than permanent grassland and permanent pasture that occupy the land for five years or more, which yield repeated harvests, including nurseries and short rotation coppice;

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<sup>1</sup> Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations (OJ L 160, 26.6.1999, p. 80).

<sup>2</sup> Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 277, 21.10.2005, p. 1).



(iii) 'permanent grassland and permanent pasture' (together referred to as 'permanent grassland') shall be land **used to grow grasses or other herbaceous forage naturally (self-seeded) or through cultivation (sown) and that has not been included in the crop rotation of the holding for five years or more, as well as, where Member States so decide, that has been neither tilled nor ploughed up for five years or more; it may include other species such as shrubs or trees which can be grazed and, where Member States so decide, other species such as shrubs or trees which produce animal feed, provided that the** ~~used to grow grasses or~~ **and other herbaceous forage naturally (self-seeded) or through cultivation (sown) remain predominant.** ~~It may include other species such as shrubs and/or trees which can be grazed or produce animal feed~~ **Member States may also decide to consider as permanent grassland:**

- **land which can be grazed and which forms part of established local practices where grasses and other herbaceous forage are traditionally not predominant in grazing areas; and/or**
- **land which can be grazed where grasses and other herbaceous forage are not predominant or are absent in grazing areas;**

(c) for the purpose of types of interventions in the form of direct payments, 'eligible hectare' shall be determined in a way that it includes any agricultural area of the holding **consists of:**

(i) **any agricultural area of the holding** that, during the year for which support is requested, is used for an agricultural activity or, where the area is also used for non-agricultural activities, is predominantly used for agricultural activities, and which is at the farmer's disposal. Where duly justified for environmental **or climate-related** reasons, **Member States may decide that** eligible hectares:

- **may** also include certain areas used for agricultural activities only every second year **or**

- **do not include agricultural areas resulting from a conversion of non-agricultural areas having a negative impact on the climate or environment.**

**(ia) any area of the holding:**

- **covered by landscape features subject to the retention obligation under GAEC 9 referred to in Annex III;**

- **used to attain the minimum share of agricultural area devoted to non-productive features under GAEC 9;**

- **which, for the duration of the relevant commitment by the farmer, is established or maintained as a result of an eco-scheme referred to in Article 28.**

**Member States may decide that eligible hectares also contain other landscape features, provided that they do not unduly hamper the performing an agricultural activity. As regards permanent grassland with scattered ineligible features, Member States may decide to apply fixed reduction coefficients to determine the area considered eligible.**

- (ii) **any area of the holding** that gave a right to payments under Subsection 2 of Section 2 of Chapter II of Title III of this Regulation or under the basic payment scheme or the single area payment scheme laid down in Title III of Regulation (EU) No 1307/2013, and which ~~no longer complies with the definition of~~ **is not an 'eligible hectare' set out in point (a) of Regulation (EU) No 1307/2013 as determined by Member States on the basis of sub-points (i) and (ia) of this point:**

- ~~as a result of the implementation of~~ **application** of Directives 92/43/EEC, and 2009/147/EC or ~~Directive 2000/60/EC~~ **to this area;**

- **as a result of the implementation of a standard under GAEC 2 referred to in Annex III of this Regulation;**

- for the duration of ~~the relevant~~ **an afforestation** commitment by the individual farmer, ~~is afforested~~ pursuant to Article 31 of Regulation (EC) No 1257/1999 or to Article 43 of Regulation (EC) No 1698/2005 or to Article 22 of Regulation (EU) No 1305/2013 **or to Article 65 or Article 68 of this Regulation,** or under a national scheme the conditions of which comply with Article 43(1), (2) and (3) of Regulation (EC) No 1698/2005 or Article 22 of Regulation (EU) No 1305/2013 or Articles ~~65 and 67~~ **or Article 68** of this Regulation;

- for the duration of **the relevant a set aside** commitment **of by** the individual farmer, **is set aside** pursuant to Articles 22, 23 and 24 of Regulation (EC) No 1257/1999, to Article 39 of Regulation (EC) No 1698/2005, to Article 28 of Regulation (EU) No 1305/2013 or to Article 65 of this Regulation.

Areas used for the production of hemp shall only be eligible hectares if the varieties used have a tetrahydrocannabinol content not exceeding 0,2 %;

- ~~(d) 'genuine farmers' shall be defined in a way to ensure that no support is granted to those whose agricultural activity forms only an insignificant part of their overall economic activities or whose principal business activity is not agricultural, while not precluding from support pluri-active farmers. The definition shall allow to determine which farmers are not considered genuine farmers, based on conditions such as income tests, labour inputs on the farm, company object and/or inclusion in registers.~~
- (e) 'young farmer' shall be defined **determined** in a way that it includes:
  - (i) a maximum age limit that may not exceed 40 years;
  - (ii) the conditions for being 'head of the holding';
  - ~~(iii) the appropriate training and/or skills required.~~

**Member States may include further objective and non-discriminatory requirements as regards appropriate training and/or skills.**

1a. **Member States may decide in their CAP Strategic Plans to apply Articles 15a, 17(3), 21(1), 22(5), 24(1), 28(2), 29(1), 34, 66(2) and 70(2) only to "genuine farmers" as determined in accordance with the second subparagraph.**

**Member States may determine in their CAP Strategic Plans which farmers shall be considered as "genuine farmers" according to objective and non-discriminatory criteria. In case Member States consider as genuine farmers those farmers who did not receive direct payments exceeding a certain amount for the previous year, such an amount shall not be higher than EUR 5 000.**

2. The Commission is empowered to adopt delegated acts in accordance with Article 138 supplementing this Regulation with rules making the granting of payments conditional upon the use of certified seeds of certain hemp varieties and the procedure for the determination of hemp varieties and the verification of their tetrahydrocannabinol content referred to in point (c) of paragraph 1 to preserve public health.

#### *Article 11*

##### *Principle and scope*

1. Member States shall include in their CAP Strategic Plans a system of conditionality, under which an administrative penalty shall be imposed on **farmers and other** beneficiaries receiving direct payments under Chapter II of this Title or the annual premia under Articles 65, 66 and 67 who do not comply with the statutory management requirements under Union law and the standards for good agricultural and environmental condition of land established in the CAP Strategic Plan, as listed in Annex III, relating to the following specific areas:

(a) the climate and the environment;

- (b) public health, animal health and plant health;
- (c) animal welfare.

~~2. The rules on the administrative penalties to be included in the CAP Strategic Plan shall respect the requirements set out in Chapter IV of Title IV of Regulation (EU) [HzR].~~

3. The legal acts referred to in Annex III concerning the statutory management requirements shall apply in the version that is applicable and, in the case of Directives, as implemented by the Member States.
4. For the purpose of this Section, 'statutory management requirement' means each individual statutory management requirement under Union law referred to in Annex III within a given legal act, differing in substance from any other requirements in the same act.

#### *Article 12*

##### *Obligations of Member States relating to good agricultural and environmental condition*

1. Member States shall ensure that all agricultural areas, including land which is no longer used for production purposes, is maintained in good agricultural and environmental condition. Member States shall ~~define~~**set**, at national or regional level, minimum standards for **farmers and other** beneficiaries for **each standard for** good agricultural and environmental condition of land **referred to in Annex III** in line with the main objective of the standards as referred to in ~~that~~ Annex ~~III~~. **In setting their standards, Member States shall take** into account, **where relevant, farm size, farm structures,** the specific characteristics of the areas concerned, including soil and climatic condition, existing farming systems, land use, **such as the share of forested areas,** ~~crop rotation, farming practices, and farm structures~~ **and the specificities of outermost regions.**

2. In respect of the main objectives laid down in Annex III Member States may prescribe standards additional to those laid down in that Annex against those main objectives. However, Member States shall not define minimum standards for main objectives other than the main objectives laid down in Annex III\*.

~~3. Member States shall establish a system for providing the Farm Sustainability Tool for Nutrients referred to in Annex III, with the minimum content and functionalities defined therein, to beneficiaries, who shall use the Tool.~~

~~The Commission may support the Member States with the design of that Tool and with data storage and processing services requirements.~~

4. The Commission is empowered to adopt delegated acts in accordance with Article 138 supplementing this Regulation with **rules for good agricultural and environmental condition, including establishing the elements of the system of the ratio of permanent grassland, the year of reference and to ensure a level-playing field as regards the rate of conversion under calculation method, while allowing for the possibility to make adaptations to the ratio concerning GAEC 1 as referred to in Annex III; the format and additional minimum elements and functionalities of the Farm Sustainability Tool for Nutrients.**

### *Article 13*

#### *Farm advisory services*

1. Member States shall include in the CAP Strategic Plan a system providing **public or private** services for advising farmers and other beneficiaries of CAP support on land management and farm management ('farm advisory services'). **Member States may make use of existing systems.**

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\* Additional specification in recital 22: **“The national standards may have different regional designs or be targeted to certain areas or farms when such adaptations are justified due to variations in the characteristics of the area or farms.”**

2. The farm advisory services shall cover economic, environmental and social dimensions and deliver up to date technological and scientific information developed by research and innovation. They shall be integrated within **the interrelated services of farm advisors, researchers, farmer organisations and other relevant stakeholders that form the Agricultural Knowledge and Innovation Systems (AKIS).**
3. Member States shall ensure that the farm advice given is impartial and that advisors have no conflict of interest.
4. The farm advisory services shall cover at least the following:
  - (a) all requirements, conditions and management commitments applying to farmers and other beneficiaries set in the CAP Strategic Plan, including requirements and standards under conditionality and conditions for ~~support schemes~~ **interventions** as well as information on financial instruments and business plans established under the CAP Strategic Plan;
  - (b) the requirements as **defined laid down** by Member States for implementing Directive 2000/60/EC, Directive 92/43/EEC, Directive 2009/147/EC, Directive 2008/50/EC, Directive (EU) 2016/2284, Regulation (EU) 2016/2031, Regulation (EU) 2016/429, Article 55 of Regulation (EC) No 1107/2009 of the European Parliament and of the Council<sup>3</sup> and Directive 2009/128/EC;
  - (c) farm practices preventing the development of antimicrobial resistance as set out in the Communication "A European One Health Action Plan against Antimicrobial Resistance"<sup>4</sup>;

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<sup>3</sup> Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).

<sup>4</sup> "A European One Health Action Plan against Antimicrobial Resistance (AMR)" (COM(2017) 339 final).



- (d) risk management as referred to in Article 70;
- (e) innovation support in particular for preparing and for implementing Operational Group projects of the European Innovation Partnership for agricultural productivity and sustainability as referred to in Article 114;
- (f) ~~development~~ of digital technologies in agriculture and rural areas as referred to in Article 102(b);

**(fa) at the latest as from {2023} the use of the Farm Sustainability Tool for Nutrients to be developed by the Commission together with the Member States. Alternatively, Member States may use another tool that meets the same objective. The Commission may support the Member States with data storage and processing services requirements.**

**5. The tool referred to in point (fa) of paragraph 4 shall be a digital application that provides a nutrient balance based on relevant information of the farm, legal requirements on nutrients and available information from soil analyses. The tool shall be as far as possible automatically integrated with other relevant digital sources, such as LPIS and IACS, and may enable a two-way communication between farmers and the appropriate paying agency/management authority. It shall guarantee the privacy and the security of the data of the end-users and, if possible, be able to support and interact with other additional digital applications for farm sustainability.}\***

#### *Article 28*

##### *Schemes for the climate and the environment*

1. Member States ~~{shall}~~ provide support for voluntary schemes for the climate and the environment ('eco-schemes') under the conditions set out in this Article and as further specified in their CAP Strategic Plans.

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\* The Presidency is reflecting on the need and the content of this paragraph, particularly in light of the seminar on the Farm Sustainability Tool for Nutrients which has recently taken place.

2. Member States ~~{shall}~~ support under this ~~type of intervention~~ Article genuine farmers or groups of farmers who make commitments to observe, on eligible hectares, agricultural practices beneficial for the climate and the environment. **If Member States decide to apply point (b) of paragraph 6 of this Article, commitments can be made either on eligible hectares or livestock units.**
3. Member States shall establish the list of agricultural practices beneficial for the climate and the environment. **Those practices shall be designed to meet one or more of the specific environmental- and climate-related objectives laid down in points (d), (e) and (f) of Article 6, and may also contribute to objectives (h) and (i) of the same Article.**
4. ~~Those practices shall be designed to meet one or more of the specific environmental- and climate-related objectives laid down in points (d), (e) and (f) of Article 6(1).~~
5. Under this ~~type of interventions~~ Article, Member States shall only provide payments covering commitments which:
  - (a) go beyond the relevant statutory management requirements and standards of good agricultural and environmental condition **of land** established under Section 2 of Chapter I of this Title;
  - (b) go beyond the **relevant** minimum requirements for the use of fertilisers and plant protection products, animal welfare, as well as other **relevant** mandatory requirements established by national and Union law;
  - (c) go beyond the conditions established for the maintenance of the agricultural area in accordance with point (a) of Article 4(1);
  - (d) **are different from** commitments in respect of which payments are granted under Article 65.

6. Support for **a particular** eco-scheme shall take the form of an annual payment ~~per~~ **for all** eligible hectares **or for the eligible hectares covered by the eco-schemes.** **If Member States decide to apply point (b) of this paragraph, support for a particular eco-scheme may also take the form of an annual payment for the livestock units covered by the eco-schemes.** ~~and it~~ **Payments** shall be granted as either:
- (a) payments additional to the basic income support as set out in Subsection 2 of this Section\*; or
  - (b) payments compensating ~~beneficiaries~~ **farmers or groups of farmers** for all or part of the additional costs incurred and income foregone as a result of the commitments ~~as set pursuant to~~ **made, which shall be calculated in accordance with** Article ~~65~~**76**.

**Payments granted in accordance with point (b) of this paragraph may also cover transaction costs.**

- ~~7. Member States shall ensure that interventions under this Article are consistent with those granted under Article 65.~~

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\* To be considered for a recital: "incentivising and remunerating the provision of ecosystem services through agricultural practices beneficial to the environment and climate".

~~8. The Commission is empowered to adopt delegated acts in accordance with Article 138 supplementing this Regulation with further rules on the eco-schemes.~~

#### *Article 44*

#### *Operational programs*

1. The objectives referred to in Article ~~42~~**41a** and the interventions in the fruit and vegetables sector set out by the Member States in their CAP Strategic Plans shall be implemented through approved operational programs of producer organisations and/or associations of producer organisations recognised under Regulation (EU) No 1308/2013, under the conditions laid down in this Article.
2. Operational programs shall have a minimum duration of three years and a maximum duration of seven years. ~~They shall pursue the objectives referred to in points (d) and (e) of Article 42 and at least two other objectives referred to in that Article.~~

**2a. Operational programs shall pursue at least the objectives referred to in points (b), (e) and (f) of Article 41a.**

3. For each objective selected, the operational programs shall describe the interventions selected from among those set out by the Member States in their CAP Strategic Plans.
4. **Operational programs shall be submitted by pP** producer organisations **and/or** associations of producer organisations recognised under Regulation (EU) No 1308/2013 **shall submit operational programs** to the Member States for **their** approval **and, if approved, shall implement them.**

~~5. Operational programs may be implemented only by producer organisations or by associations of producer organisations recognised under Regulation (EU) No 1308/2013.~~

6. Operational programs of associations of producer organisations shall not cover the same interventions as operational programs of member organisations. Member States shall consider operational programs of associations of producer organisations together with operational programs of member organisations.

To that end Member States shall ensure that:

- (a) interventions under operational programs of an association of producer organisations are entirely financed by contributions of those member organisations of that association and that such funding is collected from the operational funds of those member organisations;
- (b) interventions and their corresponding financial share are identified in the operational program of each member organisation;
- (c) there is no duplication of funding.**

7. Member States shall ensure that:

- (a) at least ~~20~~**15**% of expenditure under operational programs covers the interventions linked to the objectives referred to in points ~~(de)~~ and ~~(ef)~~ of Article ~~42~~**41a**;

**(aa) where at least 80% of the members of a producer organisation are subject to one or more identical agri-environment-climate or organic farming commitments provided for in Chapter IV of Title III of this Regulation, those commitments shall count as interventions referred to in point (a);**

- ~~(b) at least 5% of expenditure under operational programs covers the intervention linked to the objective referred to in point (c) of Article 42;~~

- (c) the interventions within the types of interventions referred to in **paragraph 2** points **(d)**, **(e)**, and **(f) and (g)** of Article 43(2)**41b** do not exceed one third of the total expenditure under operational programs.

*Article 46*

*Union financial assistance to the fruit and vegetables sector*

1. The Union financial assistance shall be equal to the amount of the financial contributions referred to in point (a) of Article 45(1) actually paid and limited to 50% of the actual expenditure incurred.
2. The Union financial assistance shall be limited to:
  - (a) 4,1% of the value of the marketed production of each producer organisation;
  - (b) 4,5% of the value of marketed production of each association of producer organisations;
  - (c) 5% of the value of marketed production of each transnational producer organisation or transnational association of producer organisations

~~By way of derogation from the first subparagraph, the Union financial assistance may be increased as follows:~~

- ~~(a) in the case of producer organisations, the percentage may be increased to 4,6% of the value of the marketed production, provided that the amount in excess of 4,1% of the value of marketed production is used solely for one or more interventions linked to the objectives referred to in points (e), (d), (e), (g), (h) and (i) of Article 42;~~
- ~~(b) in the case of associations of producer organisations, the percentage may be increased to 5% of the value of the marketed production, provided that the amount in excess of 4,5% of the value of the marketed production is used solely for one or more interventions linked to the objectives referred to in points (c), (d), (e), (g), (h) and (i) of Article 42 implemented by the association of producer organisations on behalf of its members;~~

~~(c) — in the case of transnational producer organisation or transnational association of producer organisations, the percentage may be increased to 5,5% of the value of the marketed production, provided that the amount in excess of 5% of the value of the marketed production is used solely for one or more interventions linked to the objectives referred to in points (c), (d), (e), (g), (h) and (i) of Article 42 implemented by the transnational producer organisation or transnational association of producer organisations on behalf of its members.~~

**Those limits may be increased by 0.5 percentage points provided that the amount in excess of the relevant percentage set out in the first sub-paragraph is used solely for one or more interventions linked to the objectives referred to in points (d), (e), (f), (h), (i) and (j) of Article 41a. In the case of associations of producer organisations, including transnational associations of producer organisations, those interventions may be implemented by the association on behalf of its members.**

3. At the request of a producer organisation, the 50% limit provided for in paragraph 1 shall be increased to 60% for an operational program or part of an operational program ~~satisfying~~ **if** at least one of the following ~~conditions~~ **applies**:
- (a) producer organisations operating in different Member States implementing interventions linked to the objectives referred to in points (b), ~~and (e)~~ **and (f)** of Article ~~42~~ **41a** transnationally;
  - (b) one or more producer organisations are engaged in interventions operated on an interbranch basis;
  - (c) **an** operational program covers solely specific support for the production of organic products covered by Council Regulation (EC) No ~~834/2007~~<sup>5</sup>;

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<sup>5</sup> Council Regulation (EC) No ~~834/2007~~ of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).

- (d) **an** operational program is for the first time implemented by an association of producer organisations recognised under Regulation (EU) No 1308/2013;
- (e) producer organisations account for less than 20% of fruit and vegetables production in a Member State;
- (f) producer organisation operates in one of the outermost regions referred to in Article 349 TFEU;
- (g) **an** operational program comprises the interventions linked to the objectives referred to in points (ed), (de), (ef), (hi) and (ij) of Article 4241a;
- (h) an operational program is for the first time implemented by a recognised producer organisation which is the result of a merger between two or more recognised producer organisations.**

**3a. The 50% limit provided for in paragraph 1 shall be increased to 80% for expenditure linked to the objective referred to in point (d) of Article 41a, if this expenditure covers at least 5% of the expenditure under the operational program.**

**3b. The 50% limit provided for in paragraph 1 shall be increased to 80% for expenditure linked to the objective referred to in point (e) and (f) of Article 41a, if this expenditure covers at least {20}\*% of the expenditure under the operational program.**

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\* To be considered together with Article 44(7)(a) and (aa).



4. The 50% limit provided for in paragraph 1 shall be increased to 100% in the following cases:
- (a) market withdrawals of fruit and vegetables which do not exceed 5% of the volume of marketed production of each producer organisation and which are disposed of by way of:
    - (i) free distribution to charitable organisations and foundations approved to that effect by the Member States, for use in their activities to assist persons whose right to public assistance is recognised in national law, in particular because they lack the necessary means of subsistence;
    - (ii) free distribution to penal institutions, schools and public education institutions, establishments referred to in Article 22 of Regulation (EU) No 1308/2013 and to children's holiday camps as well as to hospitals and old people's homes designated by the Member States, which will take all necessary steps to ensure that the quantities thus distributed are additional to the quantities normally bought in by such establishments;
  - (b) actions related to coaching of other producer organisations recognised under Regulation (EU) No 1308/2013, provided that those producer organisations are from regions of Member States referred to in Article 47(2) of this Regulation, or of individual producers.

*Article 65*

*Environmental, climate and other management commitments*

1. Member States ~~may grant payments for environmental, climate and other management commitments~~ **shall include agri-environment-climate commitments among the interventions in their CAP Strategic Plans and may include other management commitments therein. The payments for those commitments shall be granted** under the conditions set out in this Article and as further specified in their CAP Strategic Plans.

- ~~2. Member States shall include agri-environment-climate commitments in their CAP Strategic Plans.~~
- ~~3. Member States may make support under this type of interventions available throughout their territories, in accordance with their national, regional or local specific needs.~~
4. Member States shall only grant payments to farmers ~~and or~~ other beneficiaries who undertake, on a voluntary basis, management commitments which are considered to be beneficial to achieving **one or more of** the specific objectives set out in Article 6(1).
5. Under this ~~type of interventions~~ **Article**, Member States shall only provide payments covering commitments which:
- (a) go beyond the relevant statutory management requirements and standards of good agricultural and environmental condition established under Section 2 of Chapter I of this Title;
  - (b) go beyond the **relevant** minimum requirements for the use of fertiliser and plant protection products, animal welfare, as well as other **relevant** mandatory requirements established by national and Union law;
  - (c) go beyond the conditions established for the maintenance of the agricultural area in accordance with point (a) of Article 4(1);
  - (d) **are different from** commitments in respect of which payments are granted under Article 28.

6. Member States shall ~~compensate~~ **determine the payments to be made** ~~beneficiaries for~~ **on the basis of the additional** costs incurred and income foregone resulting from the commitments made, **taking into account the targets set. These payments shall be granted annually and**. ~~Where necessary, they~~ **may also cover** transaction costs. In duly justified cases, Member States may grant support as a flat-rate or as a one- off payment per unit. ~~Payments shall be granted annually.~~
7. Member States may promote and support collective schemes and result-based payments schemes to encourage farmers **or other beneficiaries** to deliver a significant enhancement of the quality of the environment at a larger scale ~~and~~ **or** in a measurable way.
8. Commitments shall be undertaken for a period of five to seven years. However, where necessary in order to achieve or maintain certain environmental benefits sought, Member States may determine a longer period in the CAP Strategic Plan for particular types of commitments, including by means of providing for their annual extension after the termination of the initial period.

~~In exceptional and duly justified cases,~~ **For animal welfare commitments, for commitments for the conservation, sustainable use and development of genetic resources, for conversion to organic farming,** and for new commitments directly following the commitment performed in the initial period; **or in other duly justified cases,** Member States may determine a shorter period **of at least one year** in their CAP Strategic Plans.

**8a. Member States shall ensure that a revision clause is provided for operations undertaken under the type of intervention referred to in this Article in order to ensure their adjustment in the case of amendments to the relevant mandatory standards, requirements or obligations referred to in paragraph 5 beyond which the commitments have to go or to ensure compliance with point (d) of the same paragraph. If such adjustment is not accepted by the beneficiary, the commitment shall expire and reimbursement shall not be required in respect of the period during which the commitment was effective. Member States shall also ensure that a revision clause is provided for operations undertaken under this type of intervention in this Article which extend beyond the period {2021}-2027 in order to allow for their adjustment to the legal framework of the following period.**

9. Where support under this ~~type of interventions~~ **Article** is granted to agri-environment-climate commitments, commitments to convert to or maintain organic farming practices and methods as defined in Regulation (EC) No 834/2007 and forest environmental and climate services, Member States shall establish a payment per hectare. **In duly justified cases or for other commitments, Member States may apply other units than hectares.**
- ~~10. Member States shall ensure that persons carrying out operations under this type of interventions have access to the knowledge and information required to implement such operations.~~
- ~~11. Member States shall ensure that interventions under this Article are consistent with those granted under Article 28.~~

*Article 68*  
*Investments*

1. Member States may grant support for investments under the conditions set out in this Article and as further specified in their CAP Strategic Plans.
2. Member States may only grant support under this ~~type of interventions~~ **Article** for **those** tangible and/or intangible investments, ~~which~~ **that** contribute to achieving **one or more of** the specific objectives set out in Article 6. ~~Support to the forestry sector shall be based on a forest management plan or equivalent instrument.~~

**For holdings above a certain size, to be determined by the Member States in their CAP Strategic Plan, support to the forestry sector shall be conditional on the presentation of the relevant information from a forest management plan or equivalent instrument in line with sustainable forest management as understood by the Ministerial Conference on the Protection of Forests in Europe of 1993.**

3. Member States shall establish a list of ineligible investments and categories of expenditure, including at least the following:
  - (a) ~~purchase of agricultural production rights;~~
  - (b) purchase of payment entitlements;
  - (c) purchase of land **for an amount exceeding 10% of the total eligible expenditure for the operation concerned,** ~~with the exception of land purchase for environmental conservation or land purchase by young farmers through the use of~~ **which in case of** financial instruments **shall apply to the EAFRD contribution paid to the final recipient or, in case of guarantees, to the amount of the underlying loan;**

- (d) purchase of ~~animals~~ **livestock, with the exception of endangered breeds as defined in Article 2(24) of Regulation (EU) No 2016/1012**, annual plants and their planting other than for the purpose of restoring agricultural or forestry potential following natural disaster and catastrophic events;
- (e) interest rate on debt, except in relation to grants given in the form of an interest rate subsidy or guarantee fee subsidy;
- (f) investments in irrigation which are not consistent with the achievement **and maintenance** of good status of water bodies, as laid down in Article 4(1) of Directive 2000/60/EC, including expansion of irrigation affecting water bodies whose status has been defined as less than good in the relevant river basin management plan **for reasons related to quantity**;
- (g) investments in large-**scale** infrastructures, **as determined by the Member States**, not being part of **community-led** local development strategies **set out in Article 26 of Regulation [CPR], except for broadband, renewable energy and flood and coastal protection**;
- (h) investments in afforestation which are not consistent with climate and environmental objectives in line with sustainable forest management principles, as developed in the Pan-European Guidelines for Afforestation and Reforestation.

Points ~~(a)~~ (b), (d) and (g) of the first subparagraph shall not apply where support is provided through financial instruments.

**By way of derogation from point (c), land purchase for environmental conservation and carbon-rich soil preservation, as well as land purchase by young farmers through the use of financial instruments, may be eligible to a higher rate than 10%.**

**{By way of derogation from point (f) investments in irrigation may be made eligible if an ex-ante environmental analysis shows that there will be no significant negative environmental impact from the investment. Such an environmental impact analysis shall be carried out by the competent authority or be approved by it.}**

4. Member States shall limit the support to ~~the one or more maximum rates of not exceeding~~ 75% of the eligible costs.

The ~~maximum~~ support rate may be increased **to a maximum of 100%** for the following investments:

- (a) afforestation and non-productive investments linked to **one or more of** the specific environmental- and climate-related objectives set out in points (d), (e) and (f) of Article 6(1), **including non-productive investments aimed at protecting livestock against predation**;
- (b) investments in basic services in rural areas, **as determined by the Member States**;
- (c) investments in the restoration of agricultural or forestry potential following natural disasters or catastrophic events and investments in appropriate preventive actions in forests and in the rural environment;
- (d) non-productive investments supported through community-led local development strategies set out in Article 26 [CPR] and Operational Group projects of the European Innovation Partnership for agricultural productivity and sustainability as referred to in point (a) of Article 71;**
- (e) non-productive investments in forestry infrastructure, land consolidation and improvement.**

**5 Where Union law results in the imposition of new requirements on farmers, support may be granted for investments to comply with those requirements for a maximum of 24 months from the date on which they become mandatory for the holding.**

*Article 71*

*Cooperation*

1. Member States may grant support for cooperation under the conditions set out in this Article and as further specified in their CAP Strategic Plans to:
  - (a) prepare and to implement Operational Group ~~projects~~ **operations** of the European Innovation Partnership for agricultural productivity and sustainability as referred to in Article 114; ~~and~~
  - (b) **prepare and implement** LEADER, referred to as community-led local development in Article 25 of Regulation (EU) [CPR]\*;
  - (c) ~~and to promote~~ **and support** quality schemes **and their use by farmers**;
  - (d) **support** producer organisations or producer groups;
  - (e) **support** other forms of cooperation.
2. Member States may only grant support under this ~~type of interventions~~ **Article** to promote forms of cooperation which involves at least two ~~entities~~ **actors** and which contributes to achieving **one or more of** the specific objectives set out in Article 6.
3. Member States may cover under this ~~type of interventions~~ **Article** the costs related to all aspects of the cooperation.

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\* The Presidency also proposes to amend recital (45) as follows: "[...] community supported agriculture; **all** actions within the scope of LEADER; and the setting up of producers groups and producer organisations [...]".



4. Member States may grant the support as an overall amount covering the cost of cooperation and the cost of the ~~projects and operations implemented~~, **including investment costs**, or they may cover only the costs of the cooperation and use funds from other types of interventions, national or Union support instruments for project implementation. **Where support is paid as an overall amount, Member States shall ensure that the relevant rules and requirements for similar operations covered under other types of interventions for rural development as set out in Articles 65, 66, 67, 68, 69, 70 and 72 of this Regulation are respected.**

**In the case of LEADER, referred to as Community-led Local Development in Article 25 of [CPR], by way of derogation from the first subparagraph:**

**(a) support for all costs eligible for preparatory support under Article 28(1)(a) [CPR] and for implementing selected strategies under Article 28(1)(b) and (c) [CPR] shall only be granted as an overall amount under this Article and**

**(b) Member States shall ensure that the relevant Union rules and requirements for similar operations covered under the type of interventions for investments as set out in Article 68 of this Regulation are respected.**

~~5. Where support is paid as an overall amount, Member States shall ensure that Union rules and requirements pertaining to similar actions covered under other types of interventions are respected. This paragraph does not apply to LEADER, referred to as community-led local development in Article 25 of Regulation (EU) [CPR].~~

6. Member States shall not support through this type of interventions cooperation solely involving research bodies.

7. In the case of cooperation in the context of farm succession, Member States may grant support only to farmers having reached the retirement age **or farmers that will reach that age by the end of the operation**, as set ~~under~~**determined by the Member State in accordance with its** national legislation.
8. Member States shall limit support to a maximum of seven years except for **LEADER and** collective environment and climate actions in duly justified cases to achieve the specific environmental- and climate-related objectives set out in points (d), (e) and (f) of Article 6~~(4)~~.

*Article 72*

*Knowledge exchange and information*

1. Member States may grant support for agricultural, forestry and rural business knowledge exchange and information **in agriculture, forestry, and rural businesses and communities, as well as for the protection of nature, environment and climate, including environmental education and awareness actions**, under the conditions set out in this Article and as further specified in their CAP Strategic Plans.
2. **Support u**~~nder this type of interventions~~ **Article** ~~Member States~~ may cover costs of any relevant action to promote innovation, ~~access to~~ training and advice, **drawing up and updating of plans, studies, as well as** ~~and~~ exchange and dissemination of knowledge and information which contribute to achieving **one or more of** the specific objectives set out in Article 6.

**Support for advisory services shall only be granted for advisory services that comply with the third paragraph of Article 13.**

3. ~~Member States shall limit the support to a maximum of 75% of the eligible costs.\*~~

~~By way of derogation from the first subparagraph, i~~In the case of setting-up of farm advisory services, Member States may grant support in the form of a fixed amount of maximum EUR 200 000. **They shall ensure that support is limited in time.**

4. ~~By way of derogation from paragraph 3, in outermost regions and other duly justified cases Member States may apply a higher rate or a higher amount than that set in in that paragraph to achieve the specific objectives set out in Article 6.~~

5. ~~In the case of support to the setting-up of farm advisory services, Member States shall ensure that the support is limited in time.~~

6. ~~Member States shall ensure that actions supported under this type of interventions be based on and be consistent with the description of the AKIS provided in the CAP Strategic Plan in accordance with point (i) of Article 102(a).~~

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\* No limitation to aid intensity is foreseen anymore.

## ANNEX III

### RULES ON CONDITIONALITY PURSUANT TO ARTICLE 11: OBJECTIVES, STANDARDS AND REQUIREMENTS

SMR: Statutory Management Requirement

GAEC: Standards for good agricultural and environmental condition of land

Areas	Main Issue	Requirements and standards		Main objective of the standard
Climate and environment	Climate change (mitigation of and adaptation to)	GAEC 1	Maintenance of permanent grassland based on a ratio of permanent grassland in relation to agricultural area <b>at national, regional, sub-regional, group-of-holdings or holding level. This ratio shall not decrease by more than 5% compared to reference year 2015.</b>	<i>General safeguard against conversion to other agricultural uses to preserve carbon stock</i>
		GAEC 2	Appropriate <b>Minimum</b> protection of wetland and peatland <b>at the latest by 2024</b>	<i>Protection of carbon-rich soils</i>
		GAEC 3	Ban on burning arable stubble, except for plant health reasons	<i>Maintenance of soil organic matter</i>
	Water	SMR 1	Directive 2000/60/EC of 23 October 2000 of the European Parliament and of the Council establishing a framework for Community action in the field of water policy:  Article 11(3)(e) and Article 11(3)(h) as regards mandatory requirements to control diffuse sources of pollution by phosphates	
		SMR 2	Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1):  Articles 4 and 5	
		GAEC 4	Establishment of buffer strips along water courses <sup>6</sup>	<i>Protection of river courses against pollution and run-off</i>

<sup>6</sup> The GAEC buffer strips must respect, both within and outside vulnerable zones designated pursuant to Article 3(2) of Directive 91/676/EEC, at least the requirements relating to the conditions for land application of fertiliser near water courses, referred to in point A.4 of Annex II to Directive 91/676/EEC to be applied in accordance with the action programmes of Member States established under Article 5(4) of Directive 91/676/EEC

Areas	Main Issue	Requirements and standards		Main objective of the standard
		GAEC 5	Use of Farm Sustainability Tool for Nutrients <sup>7</sup>	<i>Sustainable management of nutrients</i>
	Soil (protection and quality)	GAEC 6	Tillage management <b>or other appropriate cultivation techniques to limit</b> reducing the risk of soil degradation, <b>including taking into account the</b> slope <del>consideration</del> <b>gradient</b>	<i>Minimum land management reflecting site specific conditions to limit erosion</i>
		GAEC 7	No bare <b>Minimum</b> soil <b>cover</b> in <b>period(s) and areas that are</b> most sensitive <del>period(s)</del>	<i>Protection of soils in <b>period(s) and areas that are most sensitive</b> <del>winter</del></i>
		GAEC 8	Crop rotation <b>or other practices aiming at preserving the soil potential, such as crop diversification</b>	<i>Preserve the soil potential</i>
	Biodiversity and landscape (protection and quality)	SMR 3	Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7):  Article 3(1), Article 3(2)(b), Article 4(1), (2) and (4)	
		SMR 4	Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna (OJ L 206, 22.7.1992, p. 7):  Article 6(1) and (2)	

<sup>7</sup> The Tool shall provide at least for the following elements and functionalities:

a) Elements

- Relevant farm information based on LPIS and IACS;
- Information from the soil sampling, on an appropriate spatial and temporal scale;
- Information on relevant management practices, crop history, and yield goals;
- Indications regarding legal limits and requirements relevant to farm nutrients management;
- A complete nutrient budget.

b) Functionalities

- Automatic integration of data from various sources (LPIS and IACS, farmer generated data, soil analyses etc.) as far as possible, to avoid data input duplication for farmers;
- Two-way communication between PA/MAs and farmers allowed;
- Modularity and possibility to support further sustainability objectives (e.g. emissions management, water management)
- Respect of EU data inter-operability, openness and re-use principles;
- Guarantees for data security and privacy in line with best current standards.

Areas	Main Issue	Requirements and standards	Main objective of the standard
		GAEC 9 <ul style="list-style-type: none"> <li>• Minimum share of <b>agricultural area-arable land and permanent crops</b> devoted to:               <ul style="list-style-type: none"> <li>(i) non-productive features <b>or</b></li> <li>(ii) <b>catch crops or nitrogen fixing crops, cultivated without plant protection products</b></li> </ul> </li> <li>• Retention of landscape features</li> <li>• Ban on cutting hedges and trees during the bird breeding and rearing season</li> <li>• As an option, measures for avoiding invasive plant species</li> </ul>	<i>Maintenance of non-productive features and area to improve on-farm biodiversity</i>
		GAEC 10 <p>Ban on converting or ploughing permanent grassland in Natura 2000 sites <b>designated as environmentally-sensitive permanent grasslands in Natura 2000 sites.</b></p>	<i>Protection of habitats and species</i>
Public health, animal health and plant health	Food safety	SMR 5 <p>Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1):</p> <p>Articles 14 and 15, Article 17(1)<sup>8</sup> and Articles 18, 19 and 20</p>	
		SMR 6 <p>Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and beta-agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC (OJ L 125, 23.5.1996, p. 3):</p> <p>Article 3(a), (b), (d) and (e) and Articles 4, 5 and 7</p>	
	Identification and registration of animals <p>SMR 7           <p>Council Directive 2008/71/EC of 15 July 2008 on identification and registration of pigs (OJ L 213, 8.8.2005, p. 31):</p> <p>Articles 3, 4 and 5</p> </p>		

<sup>8</sup>

As implemented in particular by:

- Article 14 of Regulation (EC) No 470/2009 and the Annex of Regulation (EC) No 37/2010,
- Regulation (EC) No 852/2004: Article 4(1) and Annex I part A (II 4 (g, h, j), 5 (f, h), 6; III 8 (a, b, d, e), 9 (a, c)),
- Regulation (EC) No 853/2004: Article 3(1) and Annex III Section IX Chapter 1 (I-1 b, c, d, e; I-2 a (i, ii, iii), b (i, ii), c; I-3; I-4; I-5; II-A 1, 2, 3, 4; II-B 1(a, d), 2, 4 (a, b)), Annex III Section X Chapter 1(1),
- Regulation (EC) No 183/2005: Article 5(1) and Annex I, part A (I-4 e, g; II-2 a, b, e), Article 5(5) and Annex III (under the heading ‘FEEDING’, point 1 entitled ‘Storage’, first and last sentences, and point 2 entitled ‘Distribution’, third sentence), Article 5(6), and
- Regulation (EC) No 396/2005: Article 18.

Areas	Main Issue	Requirements and standards	Main objective of the standard
		<p>SMR 8 Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97(OJ L 204, 11.8.2000, p. 1): Articles 4 and 7</p>	
		<p>SMR 9 Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC (OJ L 5, 9.1.2004, p. 8): Articles 3, 4 and 5</p>	
	Animal diseases	<p>SMR 10 Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ L 147, 31.5.2001, p. 1): Articles 7, 11, 12, 13 and 15</p>	
		<p>SMR 11 Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases (OJ L 84, 31.3.2016, p.1) Article 18(1), limited to foot and mouth disease, swine vesicular disease and blue tongue.</p>	
	Plant protection products	<p>SMR 12 Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1): Article 55, first and second sentence</p>	
		<p>SMR 13 Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (OJ L 309, 24.11.2009, p. 71): Article 5(2) and Article 8(1) to (5) Article 12 with regard to restrictions on the use of pesticides in protected areas defined on the basis of the Water Framework Directive and Natura 2000 legislation. Article 13(1) and (3) on handling and storage of pesticides and disposal of remnants.</p>	

Areas	Main Issue	Requirements and standards		Main objective of the standard
Animal welfare	Animal welfare	SMR 14	Council Directive 2008/119/EC of 18 December 2008 laying down minimum standards for the protection of calves (OJ L 10, 15.1.2009, p. 7): Articles 3 and 4	
		SMR 15	Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs (OJ L 47, 18.2.2009, p. 5): Article 3 and Article 4	
		SMR 16	Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes(OJ L 221, 8.8.1998, p. 23): Article 4	



## PRESIDENCY DRAFTING SUGGESTIONS FOR THE

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 Regulation (EU) No 1306/2013

*Article 84*

#### *Control system for conditionality*

1. Member States shall set up a control system to ensure that **control compliance with the obligations referred to in Section 2 of Chapter I of Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation] by the** beneficiaries of the aid\* referred to in Article 11(1) of Regulation (EU) .../... [CAP Strategic Plan Regulation] and in Chapter IV of Regulation (EU) No 228/2013 and in Chapter IV of Regulation (EU) No 229/2013 respectively, ~~comply with the obligations referred to in Section 2 of Chapter 1 of Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation].~~

**Member States may set up a simplified control system for the beneficiaries receiving payments under Article 25 of Regulation (EU) .../...[CAP Strategic Plan Regulation].**

**Where a Member State does not apply that Article, it may decide a size corresponding to a size limit of Article 25 for which a simplified control system would apply.**

Member States may make use of their existing control systems and administration to ensure compliance with the rules on conditionality.

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\* The consistency of the use of the terms "aid", "support" and "payments" should be checked at an appropriate moment.

Those systems shall be compatible with the control system referred to in the first subparagraph of this paragraph.

Member States shall conduct a yearly review of the control system referred to in the first subparagraph in light of the results achieved.

2. For the purposes of this Chapter, the following definitions shall apply:
  - (a) "requirement" means each individual statutory management requirement under Union law referred to in Article 11 of Regulation (EU) .../...[CAP Strategic Plan Regulation] within a given **legal** act, differing in substance from any other requirements of the same **legal** act;
  - (b) "**legal** act" means each of the individual Directives and Regulations referred to in Article 11 of Regulation (EU) .../...[CAP Strategic Plan Regulation].
3. In their control system referred to in paragraph 1 Member States:
  - (a) shall include on-the-spot checks to verify compliance by beneficiaries with the obligations laid down in Section 2 of Chapter ~~4~~1 of Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation];
  - (b) may decide, depending on the requirements, standards, **legal** acts or areas of conditionality in question, to use the checks, **including administrative checks**, carried out under the control systems applicable to the respective requirement, standard, **legal** act or area of conditionality, provided the effectiveness of these checks is, at least, equal to the on-the-spot checks referred to in point (a);

- (c) may, where appropriate, make use of remote sensing or the area monitoring system **or other relevant technologies assisting them** to carry out the on-the-spot checks referred to in point (a);
- (d) **shall** establish the control sample for the checks referred to in point (a) to be carried out each year on the basis of a risk analysis, **taking into account farm structure and the inherent risk of non-compliance**, and shall include a random component and shall provide the control sample to cover at least 1% of beneficiaries receiving the aid provided for **support referred to in Section 2 of Chapter 1 of Title III Article 11(1) of Regulation (EU) .../... [CAP Strategic Plan Regulation]**;
- (e) as regards the obligations of conditionality in relation to Directive 96/22/EC, the application of a specific sampling level of monitoring plans shall be considered to fulfil the requirement of the minimum rate mentioned in point (d).**

#### *Article 85*

#### *System of administrative penalties for conditionality*

1. Member States shall set up a system providing for the application of administrative penalties to beneficiaries referred to in Article 11 of Regulation (EU) .../... [CAP Strategic Plan Regulation] who do not comply, at any time in the calendar year concerned, with the rules on conditionality as laid down in Section 2 of Chapter 1 of Title III of that Regulation ("penalty system"). **Where the area monitoring system used to carry out checks as referred to in point (c) of Article 84(3) of this Regulation reveals findings relevant for requirements or standards, the competent authorities may decide to apply administrative penalties only to beneficiaries selected for on-the-spot checks in accordance with point (d) of Article 84 (3).**

Under that system, the administrative penalties referred to in the first subparagraph shall only apply where the non-compliance is the result of an act or omission directly attributable to the beneficiary concerned; and where one or both of the following conditions are met:

- (a) the non-compliance is related to the agricultural activity of the beneficiary; **In cases other than those referred to in Article 86(3a), the administrative penalty referred to in paragraph 1 shall not apply to beneficiaries receiving payments under Article 25 of Regulation (EU) .../... [CAP Strategic Plan Regulation]. Where a Member State does not apply that Article, it may apply this subparagraph to the holdings referred to in the last sentence of the second paragraph of Article 84(1).**
- (b) the **non-compliance concerns** area of the holding of the beneficiary is concerned **as defined in point (b) of Article 3(1) of Regulation (EU) .../... [CAP Strategic Plan Regulation] or other areas managed by the beneficiary situated within the territory of the same Member State.**

With regard to forest areas, however, the administrative penalty referred to in the first subparagraph shall not apply where no support is claimed for the area concerned in accordance with Articles 65 and 66 of Regulation (EU) .../... [CAP Strategic Plan Regulation].

2. In their penalty systems referred to in paragraph 1, Member States:

- (a) shall include rules on the application of administrative penalties in cases where the land is transferred during the calendar year concerned or the years concerned. These rules shall be based on a fair and equitable attribution of the liability for non-compliances among transferors and transferees;

For the purpose of this point, 'transfer' means any type of transaction whereby the agricultural land ceases to be at the disposal of the transferor.

- (b) may decide, notwithstanding paragraph 1, not to apply a penalty per beneficiary and per calendar year when the amount of the penalty is EUR **100250** or less. The **beneficiary shall be informed about the** finding and the obligation to take remedial action ~~shall be notified to the beneficiary~~ **for the future**;

(c) shall provide that no administrative penalty be imposed where the non-compliance is due to force majeure **or exceptional circumstances as set out in Article 3.**

3. The application of an administrative penalty shall not affect the legality and regularity of the expenditure to which it applies.

*Article 86*

**Application and calculation of the penalty**

1. The administrative penalties provided for in Section 2 of Chapter ~~4~~**I** of Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation] shall be applied by means of reduction from or exclusion of the total amount of the payments listed in that Section of that Regulation granted or to be granted to the beneficiary concerned in respect of aid applications ~~he has~~ **that have been or will be** submitted ~~or will submit~~ in the course of the calendar year of the finding.

For the calculation of those reductions and exclusions, account shall be taken of the severity, extent, permanence, **or** reoccurrence ~~or intentionality~~ of the non-compliance determined. The penalties imposed shall be dissuasive and proportionate. **Where the area monitoring system is not used as an alternative to the on-the-spot-checks on a control sample as referred to in point (d) of Article 84(3), the penalties shall comply,** ~~and compliant~~ with the criteria set out in paragraphs 2, **2a,** ~~and 3~~ **and 3a** of this Article. **The administrative penalties referred to in the first subparagraph of this paragraph shall be based on the control carried out according to Article 84(3).**

2. ~~In the case of non-compliance due to negligence, t~~ **The percentage of** reduction shall **in principle** be as a general rule **1%, 3% or 5%** of the total amount of the payments referred to in paragraph 1 of this Article.

**2a. In the case that non-compliance has no or only insignificant consequences for the achievement of the objective of the standard or requirement concerned, no administrative penalty shall be applied. The beneficiary shall be informed about the non-compliance and possible remedial actions to be taken.**

~~Member States may set up an early warning system that applies to individual cases of non-compliance occurring for the first time and which, given their minor severity, extent and permanence, shall not lead to a reduction or exclusion. Where a subsequent check within three consecutive calendar years establishes that the non-compliance has not been remedied, the reduction pursuant to the first subparagraph shall be applied retroactively.~~

~~However, cases of non-compliance which constitute a direct risk to public or animal health shall always lead to a reduction or exclusion.~~

Member States may provide mandatory training under the farm advisory ~~system services~~ provided for in Section 3 of Chapter ~~II~~ of Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation] to the beneficiaries ~~to~~ who ~~m~~ have received an early warning ~~this~~ **paragraph has been applied.**

3. In case of reoccurrence, the percentage reduction shall be higher than the one ~~to be~~ applied in ~~ease of non-compliance due to negligence and sanctioned for the first time~~ **accordance with paragraph 2.**

**3a. In the case that non-compliance has grave consequences for the achievement of the objective of the standard or requirement concerned, the percentage reduction shall be higher than the one applied in accordance with paragraphs 2 or 3.**

~~4. In case of intentional non-compliance, the percentage shall be higher than the one applied in case of reoccurrence pursuant to paragraph 3 and may go as far as total exclusion from payments and may apply for one or more calendar years.~~

**54.** In order to ensure a level-playing field between Member States and the effectiveness and dissuasive effect of the penalty system, the Commission **shall be is** empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with **further** **detailed** rules on the application and calculation of penalties.

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