Basic information

2011/0286(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Common agricultural policy (CAP): application of direct payments for farmers in respect of the year 2013 Amending Regulation (EC) No 73/2009 2008/0103(CNS) See also 2011/0280(COD) See also 2011/0281(COD) See also 2011/0282(COD) See also 2011/0288(COD) See also 2011/0285(COD) **Subject** 3.10.14 Support for producers and premiums	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
AGRI Agriculture and Rural Development	CAPOULAS SANTOS Luis Manuel (S&D)	26/09/2011
	Shadow rapporteur GABRIEL Mariya (PPE) REIMERS Britta (ALDE) EICKHOUT Bas (Verts/ALE) WOJCIECHOWSKI Janusz (ECR) LE HYARIC Patrick (GUE /NGL) AGNEW John Stuart (EFD)	

Committee for opinion	Rapporteur for opinion	Appointed
DEVE Development	The committee decided not to give an opinion.	
BUDG Budgets	LA VIA Giovanni (PPE)	06/02/2012
EMPL Employment and Social Affairs	The committee decided not to give an opinion.	

	ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
	REGI Regional Development	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	3181	2012-07-10
Agriculture and Fisheries	3120	2011-10-20
Agriculture and Fisheries	3176	2012-06-18

European Commission

Commission DG	Commissioner
Agriculture and Rural Development	CIOLOŞ Dacian

European Economic and Social Committee

Key events

Date	Event	Reference	Summary
12/10/2011	Legislative proposal published	COM(2011)0630	Summary
20/10/2011	Debate in Council		Summary
25/10/2011	Committee referral announced in Parliament, 1st reading		
08/05/2012	Vote in committee, 1st reading		
11/05/2012	Committee report tabled for plenary, 1st reading	A7-0163/2012	Summary
18/06/2012	Debate in Council		Summary
03/07/2012	Debate in Parliament		
04/07/2012	Decision by Parliament, 1st reading	T7-0288/2012	Summary
04/07/2012	Results of vote in Parliament		
10/07/2012	Act adopted by Council after Parliament's 1st reading		
11/07/2012	Final act signed		
11/07/2012	End of procedure in Parliament		
31/07/2012	Final act published in Official Journal		

Technical information

Procedure reference	2011/0286(COD)

Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EC) No 73/2009 2008/0103(CNS) See also 2011/0280(COD) See also 2011/0281(COD) See also 2011/0282(COD) See also 2011/0288(COD) See also 2011/0285(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 043-p2
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	AGRI/7/07543

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE480.631	09/02/2012	
Amendments tabled in committee		PE485.935	26/03/2012	
Committee opinion	BUDG	PE485.913	25/04/2012	
Committee report tabled for plenary, 1st reading/single reading		A7-0163/2012	11/05/2012	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0288/2012	04/07/2012	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00033/2012/LEX	11/07/2012	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2011)0630	12/10/2011	Summary
Document attached to the procedure	SEC(2011)1153	12/10/2011	
Document attached to the procedure	SEC(2011)1154	12/10/2011	
Commission response to text adopted in plenary	SP(2012)627	19/09/2012	

National parliaments

Document type	Parliament/Chamber	Reference	Date	Summary
Contribution	LT_PARLIAMENT	COM(2011)0630	15/12/2011	
Contribution	PT_PARLIAMENT	COM(2011)0630	15/12/2011	
Contribution	BG_PARLIAMENT	COM(2011)0630	16/12/2011	
Contribution	DE_BUNDESRAT	COM(2011)0630	20/12/2011	
Contribution	UK_HOUSE-OF-LORDS	COM(2011)0630	10/02/2012	
Contribution	CZ_SENATE	COM(2011)0630	29/03/2012	
Contribution	IT_SENATE	COM(2011)0630	02/05/2012	
Contribution	IE_HOUSES-OF-OIREACHTAS	COM(2011)0630	21/06/2012	
Contribution	IT_CHAMBER	COM(2011)0630	20/08/2012	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EDPS	Document attached to the procedure	N7-0044/2012 OJ C 035 09.02.2012, p. 0001	14/12/2011	Summary
CofR	Committee of the Regions: opinion	CDR0065/2012	04/05/2012	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2012/0671
OJ L 204 31.07.2012, p. 0011 Summary

Common agricultural policy (CAP): application of direct payments for farmers in respect of the year 2013

2011/0286(COD) - 12/10/2011 - Legislative proposal

PURPOSE: to reform the Common Agricultural Policy (CAP) after 2013 (application of direct payments to farmers for 2013).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: the Commission presents a set of regulations laying down the **legislative framework for the CAP in the period 2014-2020**. The current reform proposals are based on the Communication on the CAP towards 2020 that outlined broad policy options in order to respond to the future challenges for agriculture and rural areas and to meet the objectives set for the CAP, namely (1) **viable food production**; (2) **sustainable management** of natural resources and climate action; and (3) **balanced territorial development**.

A common theme that has emerged throughout this process is the need to promote resource efficiency with a view to smart, sustainable and inclusive growth for EU agriculture and rural areas in line with the Europe 2020 strategy, keeping the structure of the CAP **around two pillars** that use complementary instruments in pursuit of the same objectives.

- **Pillar I** covers direct payments and market measures providing a basic annual income support to EU farmers and support in case of specific market disturbances.
- **Pillar II** covers rural development where Member States draw up and co-finance multiannual programmes under a common framework.

The framework set out in the Commission proposal for the multiannual financial framework for the years 2014-2020 (MFF) proposal foresees that the CAP should maintain its two-pillar structure with the budget for each pillar maintained in nominal terms at its 2013 level and with a clear focus on delivering results on the key EU priorities.

- Direct payments should promote sustainable production by assigning 30% of their budgetary envelope to mandatory measures that are beneficial to climate and the environment.
- Payment levels should progressively converge and payments to large beneficiaries be subject to progressive capping.
- Rural development should be included in a Common Strategic Framework with other EU shared management funds with a reinforced outcome-orientated approach and subject to clearer, improved ex-ante conditionalities.
- Finally, on market measures the financing of the CAP should be reinforced with two instruments outside the MFF: (1) an emergency reserve to react to crisis situations; and (2) the extension of the scope of the European Globalization Adjustment Fund.

On this basis, the main elements of the legislative framework for the CAP during the period 2014-2020 are set out in the following regulations:

- Proposal for a Regulation of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy ('the direct payments regulation');

- Proposal for a Regulation of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products (Single CMO Regulation) ('the Single CMO regulation');
- Proposal for a Regulation of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ('the rural development regulation');
- Proposal for a Regulation of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy ('the horizontal regulation');
- Proposal for a Council Regulation determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products;
- **Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 73/2009 as regards the application of direct payments to farmers in respect of the year 2013**;
- Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1234/2007 as regards the regime of the single payment scheme and support to vine-growers.

The rural development regulation builds on the proposal presented by the Commission on 6 October 2011 that sets out common rules for all funds operating under a Common Strategic Framework. A regulation will follow on the scheme for most deprived persons, for which funding is now placed under a different heading of the MFF.

In addition, new rules on the publication of information on beneficiaries taking account of the objections expressed by the Court of Justice of the European Union are also under preparation with a view to finding the most appropriate way to reconcile beneficiaries' right to protection of personal data with the principle of transparency.

IMPACT ASSESSMENT: the **three scenarios** elaborated in the impact assessment are:

- **an adjustment scenario** that continues with the current policy framework while addressing its most important shortcomings, such as the distribution of direct payments;
- **an integration scenario** that entails major policy changes in the form of enhanced targeting and greening of direct payments and reinforced strategic targeting for rural development policy in better coordination with other EU policies, as well as extending the legal base for a broader scope of producer cooperation; and
- **a refocus scenario** that reorients the policy exclusively towards the environment with a progressive phasing out of direct payments, assuming that productive capacity can be maintained without support and that the socio-economic needs of rural areas can be served by other policies.

The impact assessment concludes that the **integration scenario** is the most balanced in progressively aligning the CAP with the EU's strategic objectives. It will also be essential to develop an evaluation framework to measure the performance of the CAP with a common set of indicators linked to policy objectives.

LEGAL BASIS: Article 43(2) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: in view of the application of the direct payments regulation as from 1 January 2014, this regulation sets net ceilings for direct payments for the **calendar year 2013** by establishing an adjustment mechanism similar to modulation so as to ensure continuity in payment levels while taking into account the phasing in of new Member States.

BUDGETARY IMPLICATION: in current prices, it is proposed that the CAP should focus on its core activities with **EUR 317.2 billion allocated to Pillar I and EUR 101.2 billion to Pillar II** over the 2014-2020 period.

The Pillar I and Pillar II funding is complemented by **additional funding of EUR 17.1 billion** consisting of:

- EUR 5.1 billion for research and innovation,
- EUR 2.5 billion for food safety and
- EUR 2.8 billion for food support for the most deprived persons in other headings of the MFF,
- EUR 3.9 billion in a new reserve for crises in the agricultural sector,
- up to EUR 2.8 billion in the European Globalization Adjustment Fund outside the MFF, thus bringing the total budget to EUR 435.6 billion over the 2014-2020 period.

The total budget to **EUR 435.6 billion over the 2014-2020 period**.

Distribution of support among Member States: it is proposed that all Member States with direct payments below 90% of the EU average will see one third of this gap closed. The national ceilings in the direct payments regulation are calculated on this basis.

Rural development aid: this is based on objective criteria linked to the policy objectives taking into account the current distribution. As is the case today, less developed regions should continue to benefit from higher co-financing rates, which will also apply to certain measures such as knowledge transfer, producer groups, cooperation and Leader.

Lastly, some **flexibility** for transfers between pillars is introduced (up to 5% of direct payments): from Pillar I to Pillar II to allow Member States to reinforce their rural development policy, and from Pillar II to Pillar I for those Member States where the level of direct payments remains below 90% of the EU average.

Common agricultural policy (CAP): application of direct payments for farmers in respect of the year 2013

2011/0286(COD) - 20/10/2011

Ministers held an **exchange of views** on the common agricultural policy (CAP) reform package thus launching within the Council the debate on the future of the CAP for the months ahead:

Direct payments: several Member States raised concerns or stated their opposition to the proposed redistribution of payments between Member States.

- On the proposed greening of the first pillar while they generally could agree with the introduction of "greening" measures in the first pillar, several questioned the compulsory character of the proposed measures or challenged the proposed 30% proportion of direct payment envelopes devoted to this "greening".
- In addition some delegations expressed their opposition to progressive reduction and capping of direct payments amounts.
- The proposed definition of "active farmer" also raised many questions.
- Actions proposed in favour of small farms and young farmers were generally well received.

Moreover, a vast majority of delegations raised concerns that the **direct payments and rural development** proposals seemed to run counter to the important objective of simplification of the CAP.

Market management mechanisms: most of the Member States acknowledged the measures proposed by the Commission. They noted in particular the importance of extending the existing possibilities to allow the Commission to take emergency measures.

- Some Member States regretted the Commission's intention to stick to the abolition of the sugar quota system for 2015, while others welcomed the confirmation that the sugar sector would be liberalised after 2015.
- Several delegations welcomed the proposals to strengthen the role of the farmer in the food supply chain with mandatory recognition of producers and interbranch organisations, while others were concerned that this would imply the risk of competition distortion.

The Council will hold **two more policy debates** on the CAP reform proposals before the end of the year: one on **direct payments in November and another on rural development in December 2011**.

It should be noted that the Commission prepared the CAP reform package following the interinstitutional debate initiated by its communication The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future and on the basis of impact assessments for the various policies. The new rules should enter into force on 1 January 2014.

In March 2011, the Council took note of the Presidency conclusions on the Commission communication supported by a very large number of Member States. These conclusions on the communication followed an initial exchange of views and three policy debates focusing on the three main objectives of the future CAP identified in the Commission communication, namely: (i) **viable food production**; (ii) **sustainable management of natural resources and climate action**, and (iii) **balanced territorial development**.

Common agricultural policy (CAP): application of direct payments for farmers in respect of the year 2013

2011/0286(COD) - 14/12/2011

Opinion of the European Data Protection Supervisor on the legal proposals for the common agricultural policy after 2013.

On 12 October 2011, the Commission adopted a package of seven proposals on the common agricultural policy (CAP) after 2013 that were sent to the EDPS for consultation on the same day.

The Proposals aim at providing a framework for (1) viable food production, (2) sustainable management of natural resources and climate action, and (3) balanced territorial development. To this end, they establish several support schemes for farmers as well as other measures to stimulate agricultural and rural development.

In the course of these programmes, personal data — mainly relating to aid beneficiaries but also to third parties — are processed at various stages (processing of aid applications, ensuring the transparency of payments, control and fight against fraud, etc.) While the bulk of the processing is carried out by and under the responsibility of the Member States, the Commission is able to access most of these data. Beneficiaries and in some instances third parties (-e.g. for the purpose of fraud checks — have to provide information to the designated competent authorities.)

The EDPS welcomes that references to the applicability of Directive 95/46/EC and Regulation (EC) No 45/2001 are included in the preambles of the proposed Regulation on direct payments, the proposed Regulation establishing a common organisation of the markets in agricultural products, the proposed Regulation on rural development and the proposed "horizontal" Regulation.

The goal of this Opinion is not to analyse the whole set of proposals, but to offer input and guidance for designing the processing of personal data necessary for the administration of the CAP in a way that respects the fundamental rights to privacy and data protection.

To this end, the present Opinion is structured in two parts: a first, more general part includes analysis and recommendations relevant for most of the proposals. This mostly refers to comments on delegated and implementing powers for the Commission. A second part then discusses specific provisions contained in several of the proposals and gives recommendations to address the issues identified therein.

Delegated and implementing acts: in general, it is observed that many questions central to data protection are not included in the present proposals, but will be regulated by implementing or delegated acts. This applies, for example, to measures to be adopted regarding the monitoring of aid, the establishment of IT systems, transfers of information to third countries and on-the-spot checks.

However, The EDPS considers that the central aspects of the processing envisaged in the proposals and the necessary data protection safeguards cannot be regarded as 'non-essential elements', as required by Article 290 of the Treaty on the Functioning of the EU. Therefore, **at least the following elements should be regulated in the main legislative texts** in order to increase legal certainty:

- the specific purpose of every processing operation should be explicitly stated. This is especially relevant as regards publication of personal data and transfers to third countries;
- the categories of data to be processed should be specified;
- access rights should be clarified, in particular as regards access to data by the Commission. In this regard, it should be specified that the Commission may only process personal data where necessary, e.g. for control purposes;
- maximum retention periods should be laid down, as in some cases only minimum retention periods are mentioned in the proposals;
- the rights of data subjects should be specified, especially as regards the right of information; while beneficiaries might be aware of their data being processed, third parties should also be adequately informed that their data could be used for control purposes;
- the scope and the purpose of transfers to third countries should also be limited to what is necessary end should be fixed in an appropriate manner in the proposals.

Once these elements are specified in the main legislative proposals, delegated or implementing acts might be used to implement in more detail these specific safeguards. The EDPS expects to be consulted in this regard.

Rights of data subjects: the rights of data subjects should be specified, especially as regards the right of information and the right of access. This is especially relevant as regards the horizontal regulation, according to which commercial documents of beneficiaries, but also of suppliers, customers, carriers and other third parties can be checked. While beneficiaries might be aware of their data being processed, third parties should also be adequately informed that their data could be used for control purposes (e.g. by a privacy notice to be given at the moment of collection and information provided on all relevant websites and documents). The obligation to inform data subjects, including third parties, should be included in the proposals.

Security measures: in addition, security measures should be provided at least by implementing or delegated acts, especially as regards computerised databases and systems. The principles of accountability and Privacy by Design should also be taken into account.

Prior check: lastly, taking into account that in some cases data relating to (suspected) offences may be processed (e.g. related to fraud), a prior check by the competent national DPAs or the EDPS may be needed.

Common agricultural policy (CAP): application of direct payments for farmers in respect of the year 2013

2011/0286(COD) - 11/05/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Agriculture and Rural Development adopted the report drafted by Luis Manuel CAPOULAS SANTOS (S&D, PT) on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 73/2009 as regards the application of direct payments to farmers in respect of the year 2013.

It recommends that the European Parliament's position adopted at first reading, under the ordinary legislative procedure, should amend the Commission proposal as follows:

Voluntary modulation during the 2013 calendar year: Regulation (EC) 378/2007 established a mechanism for voluntary modulation of direct payments, with a view to strengthening rural development policy in certain Member States. The current provision for voluntary modulation of direct payments ends in 2012. The UK is the only Member State to apply this mechanism and therefore faces a significant gap in funding for its rural development programme in 2013. Therefore, Members propose continuing with the existing financial structure for the year 2013 to ensure continuity in payment levels.

Members consider it important, therefore, to provide **continuity of funding** for the commitments in rural development expenditure for the financial year 2014 and to ensure that the amount of direct payments in the calendar year 2013 is maintained at a similar level to that of 2012, without prejudice to the establishment of direct payment national ceilings during the next Financial Framework.

Delegation of powers to the Commission: Members have added provisions for the Commission to adopt delegated acts to provide for rules on how Member States should apply the financial discipline adjustment on the amount of payments to be paid to farmers in 2013.

The power to adopt delegated acts shall be conferred on the Commission for a period of one year from 1 January 2013.

A delegated act shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Financial transfers for Rural Development on the basis of Articles 136 of Council Regulation (EC) No 73/2009: the report notes that Article. 69(6)(b) of Regulation 73/2009 allows Member States to use unused direct payments for specific support measures (Article. 68(1)) or for the EAFRD (Article. 136).

The Commission proposal repeals Article 136, while leaving Article 68 and 69 in force. This discriminates Member States having opted for transfers under Article 136 since they can use these funds in the calendar year 2013 (=financial year 2014) neither in Pillar I nor in the EAFRD. This unequal treatment can be avoided by not repealing Article. 136.

Financial discipline mechanism: the report stresses that the procedure defined in Article 11 of Regulation 73/2009 (relating to the financial discipline mechanism) can not be implemented without the participation of the European Parliament in view of the provisions of the Lisbon Treaty on the common agricultural policy and the budget procedure.

Maintaining Article 11 (regarding financial discipline) unchanged - with the Council acting on a proposal from the Commission - would constitute a continuation of the reservation of Council's implementing powers under the former Article 202 EC. However, in the new legislative context, Members considers that this reservation of implementing powers for the Council is no longer justified.

Transitional national support: Members propose that the new Member States other than Bulgaria, Romania and Cyprus may grant transitional national support in 2013 in a form of decoupled payments to farmers subject to the authorisation by the Commission. The amount of transitional national support may be limited by a specific financial envelope per sector. The sector specific financial envelope shall not exceed the difference between the total level of direct support that the farmers would have been entitled to receive in the sector in the calendar year 2003 under a CAP scheme and the direct support provided to the sector under Regulation No 73/2009.

Common agricultural policy (CAP): application of direct payments for farmers in respect of the year 2013

2011/0286(COD) - 18/06/2012

The Presidency presented to the ministers its progress report on the reform of the common agricultural policy (CAP) (*8949/12*).

Member states broadly welcomed the progress report and overall considered it a fair and accurate reflection of the debate in the Council, which would it lay a solid foundation for the next steps in the process under the Cypriot and Irish Presidencies. They also noted that the next presidencies had to deepen discussions on the open issues. Some delegations commented on issues of importance to them, particularly in relation to **capping, convergence of direct payments and greening**.

This progress report highlights the progress achieved during the first half of 2012 on the CAP reform proposals. It has been drawn up under the responsibility of the Presidency on the basis of the positions expressed within the Council and its preparatory bodies during this semester. It makes clear that nothing is agreed until everything is agreed.

The report highlights the efforts made by the Presidency, especially on increased flexibility, simplification and greening. It indicates the main amendments suggested to the Commission proposals and on which the Presidency has noted broad support from delegations.

The Presidency's suggested amendments aim to resolve a number of issues raised by delegations, particularly with a view to ensuring that future CAP legislation is workable in practice and can be implemented in a cost-effective manner.

This report also identifies for each of the proposals the key issues which remain outstanding as at June 2012, including issues contained in the negotiating box for heading 2 of the Multiannual financial framework (MFF).

The report distinguishes between three categories of issues:

- issues on which there is broad support among delegations for the amendments suggested by the Presidency to the Commission proposals;
- issues which remain outstanding as at June 2012;
- issues which are included in the negotiating box of the Multi-Annual Financial Framework and which the European Council will ultimately decide upon.

As regards the transitional scheme of direct payments, the proposal aims to establish an adjustment mechanism for the calendar year 2013, so as to bridge the gap between the current system of modulation set to expire at the end of 2012, and the new CAP due to enter into force on 1 January 2014, while taking into account the phasing in of direct payments in the New Member States. At the informal trilogue on 24 May 2012 the representatives of the three institutions reached an agreement on a number of amendments including :

- the possibility in 2013 to apply a **voluntary adjustment** as a continuation of the voluntary modulation mechanism,
- to **continue the mechanism of transfer of unused funds to pillar II** for Member States having opted for this mechanism in 2009, for Member States applying the Single Area Payment Scheme as well as Cyprus to pay state aid and transitional national direct payments, as well as for Member States to review the specific support arrangements for 2013.

Common agricultural policy (CAP): application of direct payments for farmers in respect of the year 2013

2011/0286(COD) - 04/07/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 654 votes to 21, with 15 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 73/2009 as regards the application of direct payments to farmers in respect of the year 2013.

Parliament reached its position in first reading under the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise negotiated between the European Parliament and the Council. They modify the Council's position as follows:

Voluntary modulation during the 2013 calendar year: Regulation (EC) 378/2007 established a mechanism for voluntary modulation of direct payments, with a view to strengthening rural development policy in certain Member States. The current provision for voluntary modulation of direct payments ends in 2012. In order to maintain the amount of direct payments to be made in respect of applications made in calendar year 2013 on a level similar to that of 2012, Member States which made use of voluntary modulation in respect of calendar year 2012 should continue to have the possibility to reduce direct payments in respect of calendar year 2013 and to use the funds generated thereby to finance rural development programmes. Therefore, it is appropriate to provide for the possibility to further reduce the amount of direct payments by applying a system of voluntary adjustment of direct payments in respect of calendar year 2013. Such reduction should be in addition to the compulsory adjustment of direct payment foreseen in respect of calendar year 2013.

- Where a Member State has applied regionally differentiated voluntary modulation rates in respect of calendar year 2012, it should also have that possibility in respect of calendar year 2013. In order to safeguard the level of direct support to farmers, the combined application of the compulsory and voluntary adjustment of direct payments in calendar year 2013 should not lead to a reduction of direct payment in excess of the reductions applied in 2012, through both compulsory and voluntary modulation. Therefore, the maximum rate of adjustment of direct payments to be applied in respect of calendar year 2013 in each region should not exceed the reductions resulting from both compulsory and voluntary modulation, as applied in respect of calendar year 2012.
- Where a Member State made use of the option provided for in Regulation (EC) No 378/2007 by deciding not to apply the maximum rate for the contribution from the European Agricultural Fund for Rural Development (EAFRD) to the net amounts resulting from the application of voluntary modulation in the programming period 2007 to 2013, the same option should be made available to that Member State in respect of the funds raised through the voluntary adjustment of direct payments, in order to ensure continuity in the financing of public expenditure of the rural development measures in 2014. For reasons of consistency, the prefinancing arrangements for the rural development programmes should not apply to such funds.

Transitional national support: because of the gradual introduction of direct payments in the new Member States, these countries are authorised to grant additional national direct payments. This possibility will no longer exist in 2013. In the new Member States applying the single area payment scheme, the complementary national direct payments have played an important role in supporting the income of farmers in specific sectors. As regards Cyprus, the same can be said of State aids.

For that reason, and in order to avoid a sudden and substantial decrease of support in 2013 in those sectors benefiting, until 2012, from complementary national direct payments and, in the case of Cyprus, from State aids, it is appropriate to provide, in those Member States, for the possibility to grant, subject to authorisation by the Commission, transitional national aids to farmers in 2013.

In order to ensure the continuity of the level of support to farmers in 2013, only those sectors that benefited, in 2012, from complementary national direct payments and, in the case of Cyprus, from State aids should be eligible for the transitional national aid, and if that transitional aid is granted, it should be granted under the same conditions as the ones applied to those payments in 2012.

Transfers for rural development provided for in Article 136 of Regulation (EC) No 73/2009: in order to facilitate the more efficient use of the funds, Regulation (EC) No 73/2009 provided for the possibility for Member States to grant support above their national ceilings up to an amount the level of which ensures that it remains within the margins of the under-execution of the national ceiling. That Regulation provided for those amounts either to be used for the funding of specific support or to be transferred to the EAFRD under Article 136 of Regulation (EC) No 73/2009.

As the possibility to grant support above the national ceilings will be abolished when the new direct support system becomes applicable, the financial transfer to the EAFRD provided for in Article 136 of Regulation (EC) No 73/2009 should be **maintained only until 31 December 2013**.

The possibility to make the amounts resulting from the application of voluntary adjustment available as an additional Union support under rural development programming and financing under EAFRD for financial year 2014 and the prolongation of the financial transfers provided for in Article 136 of Regulation (EC) No 73/2009 should not affect the future adjustment of the level of direct payments with a view to a more equal distribution of direct support among Member States which is foreseen to be part of the new direct support system.

Re-examination of decisions regarding specific support for farmers: under Regulation (EC) No 73/2009, Member States had the possibility to decide to use, from the following year, a certain percentage of their national ceiling for specific support for their farmers as well as to review a previous decision by deciding to modify, or put an end to, such support. It is appropriate to provide for an additional review of those decisions with effect for calendar year 2013.

Delegation of powers to the Commission: in order to ensure the correct application of the adjustments of direct payments to be made by the Member States in respect of applications made in 2013 and financial discipline for calendar year 2013, the power to adopt acts should be delegated to the Commission in respect of the relevant rules concerning the basis of calculation for reductions to be applied to the farmers by the Member States.

Implementing powers should be conferred on the Commission as regards the presentation of the amounts resulting from the voluntary adjustment. In respect of fixing the amounts resulting from voluntary adjustment, setting the net balance available for EAGF expenditure in respect of financial year 2014 and authorising the granting of transitional national aids, the Commission should be empowered to adopt implementing acts without applying Regulation (EU) No 182/2011.

Common agricultural policy (CAP): application of direct payments for farmers in respect of the year 2013

2011/0286(COD) - 11/07/2012 - Final act

PURPOSE: to adopt transitional measures as regards the application of direct support schemes for farmers for the calendar year 2013 ahead of the Common Agricultural Policy (CAP) reform which is scheduled to enter into force on 1 January 2014.

LEGISLATIVE ACT: Regulation (EU) No 671/2012 of the European Parliament and of the Council amending Council Regulation (EC) No 73/2009 as regards the application of direct payments to farmers in respect of the year 2013.

CONTENT: following an agreement with the European Parliament at first reading, the Council adopted a Regulation amending Council Regulation (EC) No 73/2009 as regards the application of direct payments to farmers in respect of the year 2013.

The aim of what is known as the "2013" regulation is to provide for a **smooth transition from the current direct payments system** (Regulation 73/2009) to the new payments scheme foreseen by the Commission in the CAP reform proposals. Another transitional Regulation concerns support to vine-growers.

Adjustment of direct payments in 2013: Regulation (EC) No 73/2009 established a system of **compulsory**, progressive reduction of direct payments **('modulation')** including an exemption of direct payments of up to EUR 5 000 which was to apply until calendar year 2012. As a consequence, the total net amounts of direct payments **('net ceilings')** which may be granted in a Member State, after the application of modulation, were fixed until calendar year 2012.

- So as to maintain the amount of direct payments in calendar year 2013 at a level similar to that of 2012, with due account being taken of their phasing-in in the new Member States, the new Regulation establishes an **adjustment mechanism** for calendar year 2013 **with an effect equivalent to that of modulation and the net ceilings**.
- The text stipulates that any amount of direct payments to be granted in calendar year 2013 to a farmer **in excess of EUR 5 000 shall be reduced by 10%**. This reduction shall be increased by **four percentage points for amounts exceeding EUR 300 000**. This reduction shall not apply to direct payments granted to farmers in Bulgaria and in Romania and in the French overseas departments, in the Azores and Madeira, in the Canary Islands and in the Aegean Islands. By derogation, it shall be set at 0% for new Member States other than Bulgaria and Romania.

Voluntary adjustment of direct payments in 2013: in parallel with the compulsory modulation, Council Regulation (EC) No 378/2007 permits Member States to apply a reduction (voluntary modulation) to reduce direct payments for a given year up to calendar year 2012.

- In order to maintain the amount of direct payments to be made in respect of applications made in calendar year 2013 on a level similar to that of 2012, the new Regulation also allows Member States which made use of **voluntary modulation** in respect of calendar year 2012 to continue to have the possibility to reduce direct payments in respect of calendar year 2013 and to use the funds generated thereby to finance rural development programmes.

- Provision is made for where a Member State has applied regionally differentiated voluntary modulation rates in respect of calendar year 2012, for it to have that possibility in respect of calendar year 2013. The maximum rate of adjustment of direct payments to be applied in respect of calendar year 2013 in each region should not exceed the reductions resulting from both compulsory and voluntary modulation, as applied in respect of calendar year 2012.
- Where a Member State made use of the option provided for in Regulation (EC) No 378/2007 by deciding not to apply the maximum rate for the contribution from the European Agricultural Fund for Rural Development (EAFRD) to the net amounts resulting from the application of voluntary modulation in the programming period 2007 to 2013, the same option is made available to that Member State. For reasons of consistency, the prefinancing arrangements for the rural development programmes do not apply to such funds.

Transitional national aid: with the exception of Bulgaria and Romania, the new Member States applying the single area payment scheme shall have the possibility to grant transitional national aid in 2013. Except in the case of Cyprus, the granting of such aid shall be subject to authorisation by the Commission. The transitional national aid may be granted to farmers in sectors in respect of which complementary national direct payments and, in the case of Cyprus, State aids have been authorised in 2012.

Delegated and implementing powers of the Commission: in line with an amendment tabled by Parliament, the Commission shall be empowered to adopt delegated acts laying down rules concerning the basis of calculation for reductions to be applied to farmers by Member States due to the adjustments of payments in 2013 and financial discipline provided for in this Regulation. **Implementing powers** are conferred on the Commission as regards the presentation of the amounts resulting from the voluntary adjustment. In respect of fixing the amounts resulting from voluntary adjustment, setting the net balance available for EAGF expenditure in respect of financial year 2014 and authorising the granting of transitional national aids, the Commission is empowered to adopt implementing acts without applying Regulation (EU) No 182/2011.

The conditions for granting the aid shall be identical to those authorised for the granting of payments in respect of 2012. The new Member States may decide, on the basis of objective criteria and within the limits authorised by the Commission, on the amounts of transitional national aid to be granted.

ENTRY INTO FORCE: 07/08/2012

APPLICATION: from 01/01/2013

DELEGATED ACTS: the Commission shall be empowered to adopt delegated acts laying down rules concerning the basis of calculation for reductions to be applied to farmers by Member States. This power to adopt such acts is conferred on the Commission for the period running **from 1 September 2012 to 31 December 2013**. A delegated act shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **two months** of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.