



Brussels, 25.3.2013
COM(2013) 159 final

2013/0087 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on fixing an adjustment rate to direct payments provided for in Regulation (EC) No
73/2009 in respect of calendar year 2013**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

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

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

On this basis, the Commission presents a proposal for setting the adjustment rate for direct payments in respect of calendar year 2013, which is to be adopted by the European Parliament and the Council by 30 June 2013 in accordance with Article 11(1) of Regulation (EC) No 73/2009 as amended by Regulation (EU) No 671/2012 of the European Parliament and of the Council². However, if this adjustment rate has not been set by 30 June 2013, the Commission will set that rate pursuant to Article 18(4) of Council Regulation (EC) No 1290/2005 on the financing of the common agricultural policy³.

Further to determining the adjustment rate set by the present Regulation, Article 18(5) of Regulation (EC) No 1290/2005 also gives the possibility to the Commission to propose an adaptation of this rate on the basis of new information in its possession. The Commission will review its forecasts for market related expenditure and direct payments when preparing the Amending Letter to the 2014 Draft Budget in October 2013, and propose the adaptation of the adjustment rate, if appropriate. The Council may adapt the adjustment rate by 1 December 2013.

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

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

¹ OJ L 30, 31.1.2009, p. 16.

² OJ L 204, 31.07.2012, p. 11.

³ OJ L 277, 21.10.2005, p. 1.

3. LEGAL ELEMENTS OF THE PROPOSAL

This proposal sets the percentage rate of the financial discipline adjustment rate in respect of calendar year 2013.

Considering that Member States have the possibility to make late payments to farmers outside the regulatory payment period applicable to direct payments and that the financial discipline adjustment rate might vary from one calendar year to another, the amounts of direct payment to be granted to farmers should not be affected by the financial discipline differently depending on when the payment is made to farmers by the Member States. Therefore, in order to ensure equal treatment between farmers, the adjustment rate should be applied to amounts of direct payments to be granted to farmers for aid applications lodged in calendar year 2013 only, independently when the payment will actually be made to the farmer.

The unequal distribution of direct payments between small and large beneficiaries remains a concern for the CAP. The present regulation proposes to apply the financial discipline adjustment rate to amounts in excess of EUR 5000 in order to contribute to achieving the objective of a more balanced distribution of payments. This is in line with what is proposed on financial discipline in the context of the CAP reform in Article 8 of the Commission proposal for a Regulation (EU) establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy⁴.

Direct payments in Bulgaria, Romania and in Croatia, subject to its accession and as of the date of its accession, are in the process of phasing-in of direct payments in calendar year 2013. As a consequence, the financial discipline will not apply in these Member States.

4. BUDGETARY IMPLICATION

The calculation of the financial discipline adjustment rate is part of the preparation of the 2014 Draft Budget in order to comply with the sub-ceiling for market related expenditure and direct payment under Heading 2 for financial year 2014, after financial transfers between EAGF and EAFRD, set out in the Conclusions of the European Council (7/8 February 2013) on the Multiannual Financial Framework⁵. According to the Conclusions, the reserve for crises is included under Heading 2 and will be established by applying at the beginning of each year a reduction to direct payments with the financial discipline mechanism,.

The first estimates of budget appropriations for direct aids and market related expenditure showed the need to reduce the total amount of direct payments that can be granted to farmers in respect of calendar year 2013 by EUR 1471.4 million through financial discipline in order to respect the sub-ceiling for financial year 2014 set out in the Conclusions of the European Council (7/8 February 2013) on the Multiannual Financial Framework, reduced by the amounts made available to EAFRD pursuant to Article 10(b) and 136 of Regulation (EC) No 73/2009 and Article 52 of Commission proposal for a Regulation (EU) establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy. The financial discipline reduction also includes EUR 424.5 million needed to establish the reserve for crises.

The percentage of the financial discipline adjustment rate necessary to respect the ceiling is 4.981759 %. It has been calculated taking into account that it is to be applied only to amounts in excess of EUR 5000 and not in all Member States.

⁴ COM(2011) 625/2 of 19.10.2011.

⁵ EUCO 37/13 of 8 February 2013.

The application of this adjustment rate will result in the reduction of the amounts of direct payments for budget lines covering expenditure relating to aid applications submitted by farmers in respect of calendar year 2013 (financial year 2014). The total reduction resulting from the application of financial discipline amounts to EUR 1471.4 million.

5. OPTIONAL ELEMENTS

At this stage, as a precautionary measure, the financial discipline adjustment rate proposed by the present regulation is based on the Conclusions of the European Council (7/8 February 2013) on the Multiannual Financial Framework. However, the final calculation of the financial discipline rate will depend on the sub-ceiling under Heading 2 fixed in the Council Regulation laying down the multiannual financial framework for the years 2014-2020 and the Interinstitutional Agreement between the European Parliament, the Council and the Commission on cooperation in budgetary matters and on sound financial management.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on fixing an adjustment rate to direct payments provided for in Regulation (EC) No 73/2009 in respect of calendar year 2013

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

[Having regard to the opinion of the European Economic and Social Committee⁶,]

[Having regard to the opinion of the Committee of the Regions⁷,]

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Article 11(1) of Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers (⁸) lays down that in financial year 2014, the amounts for the financing of the market related expenditure and direct payments of the Common Agricultural Policy (CAP) have to respect the annual ceilings set out in application of the Regulation adopted by the Council pursuant to Article 312(2) of the Treaty on the Functioning of the European Union. Article 11(1) of Regulation (EC) No 73/2009 also lays down that an adjustment of the direct payments (financial discipline) has to be determined when the forecasts for the financing of the direct payments and market related expenditures, increased by the amounts resulting from the application of Articles 10c and 136 of that Regulation but before the application of Article 10a thereof and without taking into account the margin of EUR 300 000 000, indicate that the annual ceiling will be exceeded. In accordance with Article 11(2) of Regulation (EC) No 73/2009, the European Parliament and the Council have to determine that adjustment by 30 June based on a proposal from the Commission to be presented no later than 31 March of the calendar year in respect of which the adjustment applies.
- (2) The forecasts for the direct payments and market related expenditure determined in the preparation of the 2014 Draft Budget show that the annual ceiling for the European Agricultural Guarantee Fund (EAGF) in respect of financial year 2014 is likely to be exceeded taking into account the need to establish the reserve for crises referred to in the Conclusions of the European Council (7/ 8 February 2013) on the Multiannual

⁶ OJ C , , p. .

⁷ OJ C , , p. .

⁸ OJ L 30, 31.1.2009, p. 16.

Financial Framework. An adjustment rate to the direct payments listed in Annex I to Regulation (EC) No 73/2009 should therefore be determined.

- (3) As a general rule, farmers submitting an aid application for direct payments for one calendar year (N) are paid within a fixed payment period falling under the financial year (N+1). However, Member States have the possibility to make late payments, within certain limits, to farmers beyond this payment period without any time limits. Such late payments may fall in a later financial year. When financial discipline is applied for a given calendar year, the adjustment rate should not be applied to payments for which aid applications have been submitted in the calendar years other than that for which the financial discipline applies. Therefore, in order to ensure equal treatment of farmers, it is appropriate to provide that the adjustment rate should be applied to payments for which aid applications have been submitted in the calendar year for which the financial discipline is applied, irrespectively of when the payment is made to farmers.
- (4) The mechanism of the financial discipline, together with the modulation, was introduced with the 2003 CAP reform. Both instruments provided for a linear reduction of the amount of direct payments to be granted to farmers. Taking into account the implications of the unequal distribution of direct payments between small and large beneficiaries, modulation has been applied to amounts in excess of EUR 5000 in order to achieve a more balanced distribution of payments. In respect of calendar year 2013, the adjustment of direct payments referred to in Article 10(a) of Regulation (EC) No 73/2009 continues to provide for the same exemption as the modulation. The financial discipline should be applied in a similar way to also contribute to achieving the objective of a more balanced distribution of payments; therefore, it is appropriate to provide for the application of the adjustment rate only for amounts in excess of EUR 5000.
- (5) Article 11(3) of Regulation (EC) No 73/2009 lays down that in the framework of the application of the schedule of increments provided for in Article 121 of that Regulation to all direct payments granted in the new Member States within the meaning of Article 2(g) of that Regulation, the financial discipline should not apply to the new Member States until the beginning of the calendar year in respect of which the level of direct payments applicable in the new Member States is at least equal to the then applicable level of such payments in the other Member States. Since the direct payments are still subject to the application of the schedule of increments in calendar year 2013 in Bulgaria, Romania, the adjustment rate to be determined by the present Regulation should not apply to payments to farmers in these Member States.
- (6) Regulation (EC) No 73/2009 has been adapted by the Act of Accession of Croatia. The amendments resulting from the adaptation in question will enter into force only subject to and on the date of the entry into force of the Treaty of Accession of Croatia. Since Croatia is subject to the application of the schedule of increments provided for in Article 121 of Regulation (EC) No 73/2009 in calendar year 2013 the adjustment rate to be determined by the present Regulation should not apply to payments to farmers in Croatia, subject to its accession and as of the date of its accession,

HAVE ADOPTED THIS REGULATION:

Article 1

1. The amounts of direct payments within the meaning of Article 2(d) of Regulation (EC) No 73/2009 to be granted to a farmer in excess of EUR 5000 for an aid

application submitted in respect of calendar year 2013 shall be reduced by 4.981759 %.

2. The reduction provided for in paragraph 1 shall not apply in Bulgaria, Romania and Croatia.

Article 2

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

Article 1(2) shall apply to Croatia subject to and on the date of the entry into force of the Treaty of Accession of Croatia.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

FINANCIAL STATEMENT		FS/13/283098			
		6.15.2013.1			
		DATE: 11.03.2013			
1. BUDGET HEADING: See budgetary forecast after adjustment (former modulation) and financial discipline per item below: 05 03 01 01 (SPS) 05 03 01 02 (SAPS) 05 03 01 03 (Separate sugar payment) 05 03 01 04 (Separate F & V payment) 05 03 01 05 (Specific support Art 68 – decoupled payment) 05 03 01 06 (Separate soft fruit payment) 05 03 02 06 (Suckler cow premium) 05 03 02 07 (Additional national suckler cow premium) 05 03 02 13 (Sheep and goat premium) 05 03 02 14 (Sheep and goat supplementary premium) 05 03 02 28 (Aid for silkworms) 05 03 02 39 (Additional amount for sugarbeet and cane pr.) 05 03 02 40 (Area aid for cotton) 05 03 02 44 (Specific support, Art 68 – coupled payment) 05 03 02 50 (POSEI – Community support programmes) 05 03 02 52 (POSEI – Aegean Islands) Line for crises reserve		APPROPRIATIONS: 30 107 Mio € 7 302 Mio € 274 Mio € 12 Mio € 473 Mio € 11 Mio € 882 Mio € 47 Mio € 21 Mio € 7 Mio € 0.5 Mio € 20 Mio € 230 Mio € 987 Mio € 406 Mio € 19 Mio € 424.5 Mio €			
2. TITLE: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on fixing an adjustment rate to direct payments provided for in Regulation (EC) No 73/2009 in respect of calendar year 2013					
3. LEGAL BASIS: Article 43(2) of the Treaty on the Functioning of the European Union					
4. AIMS: This regulation sets the financial discipline adjustment rate to be applied to the amounts of direct payments to be granted to farmers in excess of EUR 5 000 for aid applications lodged in respect of calendar year 2013.					
5. FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR 2013 (EUR million)	FOLLOWING FINANCIAL YEAR 2014 (EUR million)		
5.0 EXPENDITURE - CHARGED TO THE EU BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER	-1 471.4 + 424.5	n.a.	-1 471.4 + 424.5		
5.1 REVENUE - OWN RESOURCES OF THE EU (LEVIES/CUSTOMS DUTIES) - NATIONAL					
5.0.1 ESTIMATED EXPENDITURE	2015	2016	2017	2018	
5.1.1 ESTIMATED REVENUE					

5.2	METHOD OF CALCULATION: See Comments																																	
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?	n.a.																																
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?	n.a.																																
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?	NO																																
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?	NO																																
OBSERVATIONS:																																		
<p>The calculation of the financial discipline adjustment rate is based on the Conclusions of the European Council (7/8 February 2013) on the Multiannual Financial Framework. However, the final budgetary implications will depend on the sub-ceiling under Heading 2 fixed in the Council Regulation laying down the multiannual financial framework for the years 2014-2020 and the Interinstitutional Agreement between the European Parliament, the Council and the Commission on cooperation in budgetary matters and on sound financial management.</p> <p>The first estimates of budget appropriations for direct payments and market related expenditure for the 2014 Draft Budget showed the need to reduce the total amount of direct payments that can be granted to farmers in respect of calendar year 2013 by EUR 1 471.4 million through financial discipline, in order to respect the EAGF net ceiling for financial year 2014 and establish the reserve for crises (424.5 million €). The financial discipline adjustment rate necessary is 4.981759%.</p> <p>The adjustment rate has been calculated taking into account the estimated share of direct payments to be granted to farmers below EUR 5000 for each direct payment scheme subject to financial discipline and for each Member States, except Bulgaria, Romania and Croatia. Since direct payments in Bulgaria, Romania and in Croatia, subject to its accession and as of the date of its accession, are in the process of phasing-in in calendar year 2013, the financial discipline will not apply to them as a consequence.</p> <p>The estimated amount of reduction due to financial discipline per budget items are the following:</p> <table><tr><td>05 03 01 01 (SPS)</td><td>1 172.3 Mio €</td></tr><tr><td>05 03 01 02 (SAPS)</td><td>160.5 Mio €</td></tr><tr><td>05 03 01 03 (Separate sugar payment)</td><td>9.5 Mio €</td></tr><tr><td>05 03 01 04 (Separate F & V payment)</td><td>0.35 Mio €</td></tr><tr><td>05 03 01 05 (Specific support Art 68 – decoupled payment)</td><td>19.9 Mio €</td></tr><tr><td>05 03 01 06 (Separate soft fruit payment)</td><td>0.2 Mio €</td></tr><tr><td>05 03 02 06 (Suckler cow premium)</td><td>38.7 Mio €</td></tr><tr><td>05 03 02 07 (Additional national suckler cow premium)</td><td>2.4 Mio €</td></tr><tr><td>05 03 02 13 (Sheep and goat premium)</td><td>0.3 Mio €</td></tr><tr><td>05 03 02 14 (Sheep and goat supplementary premium)</td><td>0.2 Mio €</td></tr><tr><td>05 03 02 28 (Aid for silkworms)</td><td>0.0 Mio €</td></tr><tr><td>05 03 02 39 (Additional amount for sugarbeet and cane pr.)</td><td>1.1 Mio €</td></tr><tr><td>05 03 02 40 (Area aid for cotton)</td><td>11.6 Mio €</td></tr><tr><td>05 03 02 44 (Specific support, Art 68 – coupled payment)</td><td>39.5 Mio €</td></tr><tr><td>05 03 02 50 (POSEI – Community support programmes)</td><td>14.5 Mio €</td></tr><tr><td>05 03 02 52 (POSEI – Aegean Islands)</td><td>0.3 Mio €</td></tr></table> <p>The EAGF net ceiling for financial year 2014 has been calculated on the basis of the sub-ceiling set for market related expenditure and direct payments under Heading 2 in accordance with the Conclusions of the European Council (7/8 February 2013) for financial year 2014, after deduction of the amounts of financial transfers between EAGF and EAFRD pursuant to Article 10(b) and 136 of Regulation (EC) No 73/2009 and Article 52 of Commission proposal for a Regulation (EU) establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy.</p> <p>The proposed regulation has budgetary implications in the sense that the first estimates of budget appropriations for direct payments (before considering financial discipline) have been reduced by the amounts shown above</p>			05 03 01 01 (SPS)	1 172.3 Mio €	05 03 01 02 (SAPS)	160.5 Mio €	05 03 01 03 (Separate sugar payment)	9.5 Mio €	05 03 01 04 (Separate F & V payment)	0.35 Mio €	05 03 01 05 (Specific support Art 68 – decoupled payment)	19.9 Mio €	05 03 01 06 (Separate soft fruit payment)	0.2 Mio €	05 03 02 06 (Suckler cow premium)	38.7 Mio €	05 03 02 07 (Additional national suckler cow premium)	2.4 Mio €	05 03 02 13 (Sheep and goat premium)	0.3 Mio €	05 03 02 14 (Sheep and goat supplementary premium)	0.2 Mio €	05 03 02 28 (Aid for silkworms)	0.0 Mio €	05 03 02 39 (Additional amount for sugarbeet and cane pr.)	1.1 Mio €	05 03 02 40 (Area aid for cotton)	11.6 Mio €	05 03 02 44 (Specific support, Art 68 – coupled payment)	39.5 Mio €	05 03 02 50 (POSEI – Community support programmes)	14.5 Mio €	05 03 02 52 (POSEI – Aegean Islands)	0.3 Mio €
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following the application of the adjustment rate proposed by the present draft regulation. As a result, the requested appropriations for Chapter 05 03 (Direct aids) for the 2014 Draft Budget, as given in point 1 of this financial statement for the budget items subject to financial discipline, ensure compliance with the EAGF net ceiling for financial year 2014 and the establishment of the amount for the reserve for crises.