


Procedure file

Basic information		
CNS - Consultation procedure Regulation	2007/0045(CNS)	Procedure completed
Common agricultural policy CAP: financing		
Amending Regulation (EC) No 1290/2005 2004/0164(CNS)		
Subject 3.10.01.02 Rural development, European Agricultural Fund for Rural Development (EAFRD) 3.10.13 European Agricultural Guidance and Guarantee Fund, EAGGF and EAGF		

Key players				
European Parliament	Committee responsible	Rapporteur	Appointed	
	AGRI Agriculture and Rural Development		12/04/2007	
		ALDE CHATZIMARKAKIS Jorgo		
	Committee for opinion	Rapporteur for opinion	Appointed	
	BUDG Budgets		10/04/2007	
		PPE-DE BÖGE Reimer		
	CONT Budgetary Control		03/05/2007	
		ALDE MULDER Jan		
Council of the European Union	Council configuration	Meeting	Date	
	Agriculture and Fisheries	2834	26/11/2007	
	Agriculture and Fisheries	2825	22/10/2007	
European Commission	Commission DG	Commissioner		
	Agriculture and Rural Development	FISCHER BOEL Mariann		

Key events			
20/03/2007	Legislative proposal published	COM(2007)0122	Summary
26/04/2007	Committee referral announced in Parliament		
12/09/2007	Vote in committee		Summary
17/09/2007	Committee report tabled for plenary, 1st reading/single reading	A6-0321/2007	
10/10/2007	Debate in Parliament		
11/10/2007	Results of vote in Parliament		



11/10/2007	Decision by Parliament	T6-0427/2007	Summary
26/11/2007	Act adopted by Council after consultation of Parliament		
26/11/2007	End of procedure in Parliament		
07/12/2007	Final act published in Official Journal		

Technical information

Procedure reference	2007/0045(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation (EC) No 1290/2005 2004/0164(CNS)
Legal basis	EC Treaty (after Amsterdam) EC 037-p2
Stage reached in procedure	Procedure completed
Committee dossier	AGRI/6/47675

Documentation gateway

Legislative proposal		COM(2007)0122	20/03/2007	EC	Summary
Document attached to the procedure		N6-0024/2007 OJ C 134 16.06.2007, p. 0001	10/04/2007	EDPS	Summary
Committee draft report		PE388.565	01/06/2007	EP	
Amendments tabled in committee		PE390.387	19/07/2007	EP	
Committee opinion	CONT	PE390.490	11/09/2007	EP	
Committee report tabled for plenary, 1st reading/single reading		A6-0321/2007	17/09/2007	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0427/2007	11/10/2007	EP	Summary
Commission response to text adopted in plenary		SP(2007)6028	21/11/2007	EC	

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

[Regulation 2007/1437](#)
[OJ L 322 07.12.2007, p. 0001](#) Summary

PURPOSE: to amend Regulation (EC) No 1290/2005 on the financing of the common agricultural policy.

PROPOSED ACT: Council Regulation.

CONTENT: The requirement on the publication of information on beneficiaries of Community funds, as inserted into the Financial Regulation by Council Regulation (EC, Euratom) No 1995/2006, provides that the necessary details shall be laid down in the relevant sector-specific rules. In order to implement this obligation, it is necessary to modify Council Regulation (EC) No 1290/2005 on the financing of the common agricultural policy. Furthermore, this proposal addresses a number of outstanding problems regarding the effective application of the Regulation.

The following points are included in the proposal:

Publication of information on beneficiaries of EAGF and EAFRD funding: the principles included contain the following:

- ? as regards EAGF expenditure, a split between direct payments and other funding;
- ? as regards EAFRD expenditure, one single amount of total public funding;
- ? ex-postannual publication per budget year;
- ? publication to cover EAFRD expenditure effected as of 1 January 2007 and EAGF expenditure effected as of 16 October 2007;
- ? publication by Member States at national level.

The details should be laid down in implementing rules to be adopted by the Commission.

Annex VI to Commission Regulation (EC) No 1974/2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) requires Member States' managing authorities, starting from 2008, to publish at least annually the list of beneficiaries receiving support from the rural development programmes, the names of the operations and the amount of public contributions allocated to these operations. However, the starting date for the publication of these data is now superseded by

Regulation (EC, Euratom) No 1605/2002, as amended by Regulation (EC) No 1995/2006, which requires ex-postpublication of beneficiaries of this Fund as from 1 January 2007.

Reduction and suspension of monthly and intermediate payments to Member States: the present mechanism under Articles 17 and 27 is not well tailored to deal with the situation where key components of a national control system do not exist or are not effective over a long period of time and where no remedy is available in the immediate future. It is therefore proposed to introduce a new mechanism under which the Commission would be empowered, but not obliged, to reduce or suspend payments. This mechanism could be triggered only if all below mentioned conditions are met:

- the Commission has already imposed two financial corrections in respect of the same measure and for the same reason;
- one or more of the key components of the control system in question do not exist or are not effective due to the gravity or persistence of the deficiencies found;
- the projection of the Commission is such that the Member State has failed to implement Commission's recommendation to remedy the situation and cannot or will not remedy the deficiencies in question in the immediate future.

The suspension or reduction would follow a "warning letter" sent to the Member State. The decision would be valid for a period to be determined by the Commission covering payments after the decision, without the need to repeat the procedure each month.

Modification of Article 31(5) of the Regulation (exceptions to the 24-month rule): Regulation (EEC) No 4045/89 requires Member States to carry out *ex-post* controls on certain CAP expenditure. A literal interpretation of the 24-month-rule laid down in Article 31(4) of the Regulation prevents the Commission from imposing financial corrections on the Member States in case they do not comply with their control obligations under the above-mentioned Regulation due to the lack of time left after controls made by the Member State. It is therefore proposed to amend Article 31(5) of the Regulation in order to allow for a reasonable period of time for the Commission to audit whether Member States have complied with their control obligations under Regulation (EEC) No 4045/89 and, if necessary, impose financial corrections.

Commissions implementing powers under Article 42: it is proposed to adapt this Article in order to enable the Commission adopting detailed rules for all provisions laid down in the Regulation. Additionally, with a new Article on transparency in the Regulation it is advisable to refer directly in the Article on implementing powers to the transparency provision in order to authorise the Commission to adopt detailed rules of application.

Technical adaptations: lastly, the Commission suggests resolving a number of smaller technical problems that have been identified concerning mainly the coherence between the financial management of the EAFRD and the financial management of the Structural Funds and the financing of intervention measures if no sum per unit is determined.

Common agricultural policy CAP: financing

Opinion of the European Data Protection Officer on the proposal for a Council Regulation amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy.

The EDPS has been following, with a matter of interest, development leading to the adoption of this proposal and welcomes the Commission's decision to mention the EDPS in its preamble to the proposal. To recall, the EDPS issued an Opinion on 12 December 2006 regarding proposals to amend the Financial Regulation applicable to the general budget of the European Communities and its implementing rules. In this opinion, the EDPS supported the inclusion of the transparency principle in the legislation, with due respect to Directive 95/46/EC and Regulation (EC) 45/2001 but advised that a proactive approach to the rights of the data subjects should be respected, given that personal data will be disclosed. This approach could consist of informing the data subjects beforehand, at the time the personal data has been collected, that such data will be made public, and of ensuring that the data subject's right of access and right to object, are respected. This principle should also apply to the ex post publication of beneficiaries.

In the more general context of developing a proactive approach on transparency and the provisions of the Financial Regulation and its Implementing Rules, the EDPS draws the Council's attention to a proposed change in the text on informing data subjects about the processing of their personal data. Given the enormous number of possible data subjects, some institutions and bodies involved in this process

may find it impossible to fulfil this obligation. An alternative, therefore, would be to exempt auditing institutions and bodies from informing those data subjects, who are already in possession of this information. The EDPS reminds the Council that the European Parliament has taken this suggestion into account by introducing an Article 43a in its legislative resolution adopted in February 2007 (see [CNS/2006/0900](#)).

Based on the above reasoning, the EDPS would find it most appropriate to include this amendments relating to beneficiaries in the current proposal.

Common agricultural policy CAP: financing

The Committee on Agriculture and Rural Development adopted a report drafted by Jorgo CHATZIMARKAKIS (ADLE, DE), and approved the proposal for a Council regulation amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy, subject to some amendments.

The main amendments were as follows;

Accreditation of paying agencies: Member States should be obliged to inform the Commission of any accreditation given to a paying agency, including an assessment of their fulfilment of the conditions. This will enable the Commission to monitor the accreditation of paying agencies by the Member States and it will stimulate Member States to improve their accreditation procedures. They must also inform the Commission of any major changes in the structures or the functioning of the accredited paying agency which might affect fulfilment of the conditions by the paying agencies. The Commission must monitor the accreditation of paying agencies by the Member States. Where an accredited paying agency does not meet one or more of the conditions laid down, the Commission must order the accrediting Member State to withdraw the accreditation unless the paying agency makes the necessary changes within a period to be determined by the Commission according to the severity of the problem.

Member States should be obliged to inform the Commission of the designation of certification bodies, including an assessment of their ability to perform the desired tasks.

Protection of the Community's financial interests: in order to ensure effective control of Community funds, each Member State shall, at the appropriate national level, prior to receiving Community funding, issue a statement, based on available audits and declarations, declaring that the financial control structures required by Community law are in place and functioning.

Reduction and suspension of monthly payments: one amendment aims to ensure that Member States with several paying agencies do not face a higher risk of preventive penalties being imposed than Member States with only one. In addition, the percentage by which the monthly payments may be reduced or suspended shall be equal to the percentage decided by the Commission. This percentage will be reduced if in the meantime the Member State has gone some way towards remedying the shortcomings identified by the Commission in its latest decision. The Commission may decide to increase this percentage annually if the shortcomings have persisted for four years or longer.

Duration of infringement: in addition to the nature and gravity of the infringement, its duration must also be taken into account in the Commission's assessment of the amounts to be excluded from financing in the event of non-conformity. The Commission will draw up an annual report which summarises the amounts excluded from Community financing, following infringements by

Member States of their obligations, as well as the amounts which could not be excluded due to failure to notify Member States in time.

Irregularities: the Committee felt that the general rule of equal burden-sharing in case of non-recovery, i.e. 50% for the EC budget and 50% for the budget of the Member State concerned, is counterproductive. An amendment stipulates that if recovery has not taken place within four years of the primary administrative or judicial finding, or within eight years where recovery action is taken in the national courts, the financial consequences of non-recovery shall be borne by the Member State concerned. A transitional period of 5 years shall be allowed. Where, in the context of the recovery procedure, the absence of any irregularity is recorded by an administrative or legal instrument of a definitive nature, the Member State concerned shall declare as expenditure to the EAGF the financial burden borne by it. However, if, for reasons not attributable to the Member State concerned, recovery could not take place within the time-limits specified, and the amount to be recovered exceeds EUR 1 million, the Commission may, at the request of the Member State, extend the time-limits by a maximum of 50 % of the initial time-limits.

Report on publication: within two years following the entry into force of the Regulation, the Commission shall submit a report setting out the experience gained from the publication of information concerning the beneficiaries of agricultural payments. This report will include a review of what the data was used for, by whom it was used and an assessment of the advantages or otherwise of the publication of this data from the point of view of openness, transparency and public understanding of the common agricultural policy. In addition, the Commission shall indicate whether the centralised publication of information at Commission level would be advisable, or, as appropriate, why this is not the case.

Evaluation report: in 2008-2009, the Commission shall draw up an evaluation report, possibly accompanied by legislative proposals. In 2011, the Commission shall draw up an evaluation report, possibly accompanied by legislative proposals, considering, in particular, the objective distribution of agricultural and rural development funds, on the basis of objective criteria rather than taking as its starting point historical expenditure and compromises in the Council.

Confidentiality and transparency: Member States must ensure annual ex-post publication, via the Internet, of the beneficiaries of the EAGF and the EAFRD and the amounts received per beneficiary under each of these Funds. When accessing the proposed Internet site, users shall be required to sign on or register. In the interests of transparency on both sides, any beneficiary of EU payments whose details have been published shall have access to a report on visitors to pages relating to it. Data on payments from the EARDF should at least be subdivided in such a way as to make clear which axis they relate to, since these payments differ substantially depending on the axis concerned. There should be further minimum criteria for published information to increase comparability between Member States.

The publication must contain at least :

- for the EAGF, the amount subdivided in direct payments within the meaning of Article 2(d) of Regulation (EC) No 1782/2003 and other expenditure. In addition, intervention expenditure shall be subdivided by area;
- for the EAFRD, the total amount of public funding per beneficiary subdivided by axes pursuant to Title IV, Chapter I, of Regulation (EC) No 1698/2005;
- the beneficiaries' names and ? subject to binding data protection provisions ? the municipalities in which they have their places of residence or registered offices, and the amounts of the annual payments;

- if, in the case of agricultural holdings in the legal form of a sole proprietorship, the names of farmers are published then, in the case of other legal forms of business, the names of the investors and of the management, e.g. the board of a public limited company and the directors of a private limited company, shall also be given.

In keeping with the data protection requirements, Member States may further subdivide the information. In particular, they may also publish information concerning payments from the EAFRD on a project-related basis. Member States shall not be required to publish details of additional payments from purely national funds (top-ups), but publication of this information will be encouraged.

Information shall be published annually on a date to be specified by the Member State which should be notified to the Commission and to the recipients.

The Commission shall set up an Internet platform linked to the Member States' Internet platforms. If Member States have information published by several paying agencies, those agencies shall also be linked to one another. Member States and the Commission shall be free to carry out general assessments of and to explain published data. Data concerning individuals shall be assessed only with the consent of the specific persons concerned.

Lastly, Members stated that if, as a result of the absence of key components of control systems, the annual publications by the Member States after 30 June 2009 contain major errors which seriously compromise the desired degree of transparency concerning expenditure practice, within two years following the entry into force of the Regulation, payments for the Funds concerned and for the paying agency concerned shall be reduced by a flat rate of 2% for every year in which the major errors are not remedied.

Common agricultural policy CAP: financing

The European Parliament adopted a resolution drafted by Jorgo CHATZIMARKAKIS (ADLE, DE), and approved the proposal for a Council regulation amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy, subject to some amendments.

The main amendments were as follows;

Accreditation of paying agencies: Member States should be obliged to inform the Commission of any accreditation given to a paying agency, including an assessment of their fulfilment of the conditions. This will enable the Commission to monitor the accreditation of paying agencies by the Member States and it will stimulate Member States to improve their accreditation procedures. They must also inform the Commission of any major changes in the structures or the functioning of the accredited paying agency which might affect fulfilment of the conditions by the paying agencies. The Commission must monitor the accreditation of paying agencies by the Member States. Where an accredited paying agency does not meet one or more of the conditions laid down, the Commission must order the accrediting Member State to withdraw the accreditation unless the paying agency makes the necessary changes within a period to be determined by the Commission according to the severity of the problem.

Certification bodies: Parliament specified that the certification body shall be a public or private legal entity designated by the Member State with a view to certifying the truthfulness, completeness and accuracy of the accounts of the accredited paying agency, taking account of management and control system. Where a certification body cannot perform its tasks, the Member State must withdraw the designation unless the certification body makes the necessary changes within a period to be determined according to the severity of the problem.

Protection of the Community's financial interests: in order to ensure effective control of Community funds, each Member State shall, at the appropriate national level, prior to receiving Community funding, issue a statement, based on available audits and declarations, declaring that the financial control structures required by Community law are in place and functioning.

Reduction and suspension of monthly payments: one amendment aims to ensure that Member States with several paying agencies do not face a higher risk of preventive penalties being imposed than Member States with only one. In addition, the percentage by which the monthly payments may be reduced or suspended shall be equal to the percentage decided by the Commission. This percentage will be reduced if in the meantime the Member State has gone some way towards remedying the shortcomings identified by the Commission in its latest decision. The Commission may decide to increase this percentage annually if the shortcomings have persisted for four years or longer.

Duration of infringement: in addition to the nature and gravity of the infringement, its duration must also be taken into account in the Commission's assessment of the amounts to be excluded from financing in the event of non-conformity. The Commission will draw up an annual report which summarises the amounts excluded from Community financing, following infringements by Member States of their obligations, as well as the amounts which could not be excluded due to failure to notify Member States in time.

Irregularities: Parliament felt that the general rule of equal burden-sharing in case of non-recovery, i.e. 50% for the EC budget and 50% for the budget of the Member State concerned, is counterproductive. An amendment stipulates that if recovery has not taken place within four years of the primary administrative or judicial finding, or within eight years where recovery action is taken in the national courts, the financial consequences of non-recovery shall be borne by the Member State concerned. A transitional period of 5 years shall be allowed. Where, in the context of the recovery procedure, the absence of any irregularity is recorded by an administrative or legal instrument of a definitive nature, the Member State concerned shall declare as expenditure to the EAGF the financial burden borne by it. However, if, for reasons not attributable to the Member State concerned, recovery could not take place within the time-limits specified, and the amount to be recovered exceeds EUR 1 million, the Commission may, at the request of the Member State, extend the time-limits by a maximum of 50% of the initial time-limits.

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Evaluation report: in 2008-2009 the Commission shall draw up an evaluation report, possibly accompanied by legislative proposals. In 2011 the Commission shall draw up an evaluation report, possibly accompanied by legislative proposals, considering, in particular, the objective distribution of agricultural and rural development funds, on the basis of objective criteria rather than taking as its starting point historical expenditure and compromises in the Council.

Confidentiality and transparency: Member States must ensure annual ex-post publication, via the Internet, of the beneficiaries of the EAGF and the EAFRD and the amounts received per beneficiary under each of these Funds. When accessing the proposed Internet site, users shall be required to sign on or register. In the interests of transparency on both sides, any beneficiary of EU payments whose details have been published shall have access to a report on visitors to pages relating to it. Data on payments from the EAFRD should at least be subdivided in such a way as to make clear which axis they relate to, since these payments differ substantially depending on the axis concerned. There should be further minimum criteria for published information to increase comparability between Member States.

The publication must contain at least :

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- for the EAFRD, the total amount of public funding per beneficiary subdivided by axes pursuant to Title IV, Chapter I, of Regulation (EC) No 1698/2005;
- the beneficiaries' names and ? subject to binding data protection provisions ? the municipalities in which they have their places of residence or registered offices, and the amounts of the annual payments;
- if, in the case of agricultural holdings in the legal form of a sole proprietorship, the names of farmers are published then, in the case of other legal forms of business, the names of the investors and of the management, e.g. the board of a public limited company and the directors of a private limited company, shall also be given.

In keeping with the data protection requirements, Member States may further subdivide the information. In particular, they may also publish information concerning payments from the EAFRD on a project-related basis. Member States shall not be required to publish details of additional payments from purely national funds (top-ups), but publication of this information will be encouraged.

Information shall be published annually on a date to be specified by the Member State which should be notified to the Commission and to the recipients.

The Commission shall set up an Internet platform linked to the Member States' Internet platforms. If Member States have information published by several paying agencies, those agencies shall also be linked to one another. Member States and the Commission shall be free to carry out general assessments of and to explain published data. Data concerning individuals shall be assessed only with the consent of the specific persons concerned.

Lastly, Members stated that if, as a result of the absence of key components of control systems, the annual publications by the Member States after 30 June 2009 contain major errors which seriously compromise the desired degree of transparency concerning expenditure practice, within two years following the entry into force of the Regulation, payments for the Funds concerned and for the paying agency concerned shall be reduced by a flat rate of 2% for every year in which the major errors are not remedied.

Common agricultural policy CAP: financing

PURPOSE: to amend Regulation (EC) No 1290/2005 on the financing of the common agricultural policy.

LEGISLATIVE ACT : Council Regulation (EC) No 1437/2007 amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy

CONTENT : The Council adopted by a qualified majority a Regulation amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy. The Regulation aims to supplement or clarify certain aspects of current procedures.

The requirement on the publication of information on beneficiaries of Community funds, as inserted into the Financial Regulation by Council Regulation (EC, Euratom) No 1995/2006, provides that the necessary details shall be laid down in the relevant sector-specific rules. In order to implement this obligation, Council Regulation (EC) No 1290/2005 had to be modified. Furthermore, this Regulation addresses a number of problems regarding the effective application of the Regulation 1290/2005.

The main points are as follows:

Publication of information on beneficiaries of EAGF and EAFRD funding: the principles included contain the following:

?as regards EAGF expenditure, a split between direct payments and other funding;

?as regards EAFRD expenditure, one single amount of total public funding;

?ex-post annual publication per budget year;

?publication to cover EAFRD expenditure effected as of 1 January 2007 and EAGF expenditure effected as of 16 October 2007;

?Member States will be responsible for publication at national level and also responsible for ensuring the accuracy of the data published. The details should be laid down in implementing rules to be adopted by the Commission.

Reduction and suspension of monthly and intermediate payments to Member States: a new mechanism is introduced under which the Commission is empowered, but not obliged, to reduce or suspend payments. This mechanism could be triggered only if all below mentioned conditions are met:

-the Commission has already imposed two financial corrections in respect of the same measure and for the same reason;

-one or more of the key components of the control system in question do not exist or are not effective due to the gravity or persistence of the deficiencies found;

-the projection of the Commission is such that the Member State has failed to implement Commission's recommendation to remedy the situation and cannot or will not remedy the deficiencies in question in the immediate future.

The suspension or reduction would follow a "warning letter" sent to the Member State. The decision would be valid for a period to be

determined by the Commission covering payments after the decision, without the need to repeat the procedure each month.

Modification of Article 31(5) of the Regulation (exceptions to the 24-month rule): Regulation (EEC) No 4045/89 requires Member States to carry out ex-post controls on certain CAP expenditure. A literal interpretation of the 24-month-rule laid down in Article 31(4) of the Regulation prevents the Commission from imposing financial corrections on the Member States in case they do not comply with their control obligations under the above-mentioned Regulation due to the lack of time left after controls made by the Member State. In order to deal with this problem, the limitation in time will not apply for infringements of the Member States' control obligations under Regulation (EEC) No 4045/89, provided that the Commission acts upon the Member States' report within a period of 12 months after receipt of that report.

Technical adaptations: lastly, the Council has made some smaller technical adaptations in order to resolve problems that have been identified concerning mainly the coherence between the financial management of the EAFRD and the financial management of the Structural Funds and the financing of intervention measures if no sum per unit is determined

ENTRY INTO FORCE : 14/12/2007.

APPLICATION: point (3) and Article 1(5) (regarding suspension and reduction of intermediate payments in specific cases) shall apply as from 1 July 2008.

Article 1(6) (regarding modification of Article 31(5) of the Regulation) shall apply with respect to the Member States' reports received by the Commission after 1 January 2008, excluding any expenditure effected by Member States before the financial year 2006.