Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008

REGULATION (EU) No 1306/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 17 December 2013

on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008

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 Court of Auditors,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled "The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future" examined potential challenges, objectives and orientations for the Common Agricultural Policy (CAP) after 2013. In the light of the debate on that Communication, the CAP should be reformed with effect from 1 January 2014. That reform should cover all the main instruments of the CAP, including Council Regulation (EC) No 1290/2005[(2)]. Experience derived from implementing that Regulation shows that certain elements of the financing and monitoring mechanism need to be adjusted. In view of the scope of the reform, it is appropriate to repeal Regulation (EC) No 1290/2005 and to replace it with a new text. The reform should also, as far as possible, harmonise, streamline and simplify its provisions.

(2) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of the accreditation of the paying agencies and coordinating bodies, the obligations of the paying agencies in relation to public intervention, as well as the rules

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on the content of the management and control responsibilities of those agencies, the measures to be financed by the general budget of the European Union (the Union's budget) under public intervention and the valuation of the operations in connection with public intervention. That empowerment should also cover derogations from the ineligibility of payments made by the paying agencies to the beneficiaries before the earliest or the latest possible date of payment and the compensation between expenditure and revenues under the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD). In addition, that empowerment should cover the methods applicable to the commitments and the payment of the amounts if the Union's budget has not been adopted by the beginning of the financial year or if the total amount of the commitments scheduled exceeds the threshold laid down in Article 170(3) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[(3)].

Furthermore, that empowerment should cover the deferral of monthly payments by the Commission to Member States with regard to expenditure under the EAGF and the conditions governing the reduction or suspension by the Commission of interim payments to Member States under the EAFRD. That empowerment should additionally cover the suspension of monthly payments or interim payments for which the relevant statistical information has not been sent in time, the specific obligations to be complied with by Member States with regard to checks, the criteria and methodology for applying corrections in the context of the conformity clearance procedure and the recovery of debts. Moreover, that empowerment should cover requirements with respect to customs procedures, the withdrawals of aid and penalties in the case of non-compliance with the eligibility conditions and commitments or other obligations resulting from the application of sectoral agricultural legislation. Likewise, that empowerment should cover market measures for which the Commission may suspend monthly payments, rules on securities, on the functioning of the integrated administration and control system as well as the measures excluded from the scrutiny of transactions. Similarly, that empowerment should cover the modification of the sum of the receipts or payments below which the commercial document of undertakings should normally not be scrutinised pursuant to this Regulation, the penalties applied under cross-compliance, the control requirements in the wine sector and the rules on maintenance of permanent pasture. Lastly, that empowerment should cover the rules on the operative event and the exchange rate to be used by the Member States not using the euro, measures to safeguard the application of Union law if exceptional monetary practices related to national currency are likely to jeopardise it, in respect of the content of the common monitoring and evaluation framework of the measures adopted under the CAP and in respect of transitional measures.

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

(3) The CAP consists of various measures, some of which relate to rural development. It is important to provide financing for those measures in order to contribute to the achievement of the objectives of the CAP. Since those measures have certain elements

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in common, but do also differ in a number of respects, the provisions on their financing should be dealt with in the same set of provisions. Where necessary those provisions should allow for different treatment. Regulation (EC) No 1290/2005 created two European agricultural funds, namely the EAGF, and the EAFRD (the "Funds"). Those Funds should be maintained.

(4) Regulation (EU, Euratom) No 966/2012 and the provisions adopted pursuant to it should apply to the measures set out in this Regulation. In particular, this Regulation lays down provisions related to the shared management with Member States based on the principles of sound financial management, transparency and non-discrimination, as well as provisions on the function of accredited bodies, the budgetary principles, provisions which should be respected in the framework of this Regulation.

(5) In order to ensure consistency between the practices of Member States and harmonised application of the force majeure clause by Member States, this Regulation should provide, where appropriate, for exemptions in cases of force majeure and exceptional circumstances, as well as for a non-exhaustive list of possible cases of force majeure and exceptional circumstances to be recognised by the national competent authorities. Those authorities should take decisions on force majeure or exceptional circumstances on a case by case basis, on the basis of relevant evidence and applying the concept of force majeure in the light of Union agricultural law including the case law of the Court of Justice.

(6) The Union's budget should finance CAP expenditure, including expenditure on rural development, through the Funds either directly or in the context of shared management with the Member States. The types of measures that can be financed using the Funds should be specified.

(7) Provision should be made for the accreditation of paying agencies by Member States and for the establishment of the procedures for obtaining management declarations, and for obtaining the certification of management and monitoring systems and the certification of annual accounts by independent bodies. Moreover, in order to ensure the transparency of national checks, in particular as regards procedures for authorisation, validation and payment and to reduce the administrative and audit burden for the Commission and for the Member States where accreditation of each individual paying agency is required, the number of authorities and bodies to which those responsibilities are delegated should be restricted while respecting the constitutional arrangements of each Member State. In order to avoid unnecessary reorganisation costs, Member States should be allowed to maintain the number of paying agencies which have been accredited before the entry into force of this Regulation.

(8) Where a Member State accredits more than one paying agency, it is important that it designates a single public coordinating body in order to ensure consistency in the management of funds, to provide liaison between the Commission and the various accredited paying agencies and to ensure that the information requested by the Commission concerning the operations of several paying agencies is made rapidly available. The public coordinating body should also take and coordinate actions with a view to resolving any deficiencies of a common nature and should keep the Commission

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informed of any follow-up. In addition, that body should promote and, where possible, ensure homogeneous application of common rules and standards.

(9) Only when using paying agencies that have been accredited by the Member States is there reasonable assurance that the necessary checks have been carried out before granting Union aid to beneficiaries. It should, therefore, be explicitly laid down in this Regulation that only expenditure effected by accredited paying agencies can be reimbursed from the Union's budget.

(10) In order to help beneficiaries to become more aware of the relationship between agricultural practices and management of farms on the one hand, and standards relating to the environment, climate change, good agricultural condition of land, food safety, public health, animal health, plant health and animal welfare on the other, it is necessary for Member States to establish a comprehensive farm advisory system offering advice to beneficiaries. That farm advisory system should not, in any way, affect the obligation and responsibility of beneficiaries to respect those standards. Furthermore, a clear separation between advice and checks should be ensured by the Member States.

(11) The farm advisory system should cover at least the obligations at farm level resulting from cross-compliance standards and requirements. That system should also cover the requirements to be respected in relation to the agricultural practices beneficial for the climate and the environment and the maintenance of the agricultural area under Regulation (EU) No 1307/2013 of the European Parliament and of the Council[(4)] and measures at farm level provided for in rural development programmes aiming at farm modernisation, competitiveness building, sectoral integration, innovation, market orientation and promotion of entrepreneurship.
That system should also cover the requirements imposed on beneficiaries by Member States in order to implement specific provisions of Directive 2000/60/EC of the European Parliament and the Council[(5)] and for implementing Article 55 of Regulation (EC) No 1107/2009 of the European Parliament and of the Council[(6)], in particular requirements concerning the compliance with the general principles of integrated pest management as referred to in Article 14 of Directive 2009/128/EC of the European Parliament and the Council[(7)].

(12) Entry into the farm advisory system should be on a voluntary basis for beneficiaries. All beneficiaries, even farmers not receiving support under the CAP, should be allowed to participate in the system. It should, however, be possible for Member States to set priority criteria. Due to the nature of the system, it is appropriate for the information obtained during the advisory activity to be treated as confidential, except in the case of serious infringements of Union or national law. In order to ensure the efficiency of the system, advisors should be suitably qualified and regularly trained.

(13) In respect of the EAGF, the financial resources required to cover the expenditure effected by the accredited paying agencies, should be made available to the Member States by the Commission in the form of reimbursements against the booking of the expenditure effected by those agencies. Until such reimbursements have been paid, in the form of monthly payments, financial resources are to be mobilised by the Member States depending on the needs of their accredited paying agencies. The

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administrative and personnel costs of the Member States and the beneficiaries involved in the implementation of the CAP should be borne by themselves.

(14) The use of the agro-meteorological system and the acquisition and improvement of satellite images should provide the Commission with, in particular, the means to manage agricultural markets, to facilitate the monitoring of agricultural expenditure and to monitor agricultural resources in the medium and long term. Also, in the light of the experience gained with the application of Council Regulation (EC) No 165/94[(8)], some of its provisions should be incorporated in this Regulation and, consequently, Regulation (EC) No 165/94 should be repealed.

(15) In the context of respecting budget discipline, it is necessary to define the annual ceiling for the expenditure financed by the EAGF by taking into account the maximum amounts laid down for that Fund under the multiannual financial framework provided for in Council Regulation (EU, Euratom) No 1311/2013[(9)].

(16) Budget discipline also requires the annual ceiling for expenditure financed by the EAGF to be respected in all circumstances and at every stage of the budget procedure and of the execution of the budget. Consequently, it is necessary for the national ceiling for the direct payments per Member State set out in Regulation (EU) No 1307/2013 to be regarded as a financial ceiling for such direct payments for the Member State concerned and for the reimbursement of those payments remain within this financial ceiling. Furthermore, budget discipline requires that all Union legal acts in the CAP field that are proposed by the Commission or adopted by the Union or by the Commission and that are financed by the EAGF comply with the annual ceiling for the expenditure financed by that Fund.

(17) With a view to ensuring that the amounts for the financing of the CAP comply with the annual ceilings, the financial mechanism referred to in Council Regulation (EC) No 73/2009[(10)] by which the level of direct support is adjusted, should be maintained. Where the European Parliament and the Council do not fix them before 30 June of the calendar year in respect of which they apply, the Commission should be authorised to set those adjustments.

(18) In order to support the agricultural sector in case of major crises affecting the agricultural production or distribution, a reserve for crises should be established by applying, at the beginning of each year, a reduction to direct payments through the financial discipline mechanism.

(19) Article 169(3) of Regulation (EU, Euratom) No 966/2012 provides that non-committed appropriations relating to the actions referred to in Article 4(1) of this Regulation may be carried over only to the following financial year and that such carryover may lead to an additional payment only to the final recipients who were subject, in the preceding financial year, to the adjustment of direct payments as referred to in Article 25 of this Regulation. Consequently, where appropriations are thus carried over to the following financial year, the national administrations would have to make payments to two populations of beneficiaries of direct payments in one financial year: on the one hand, reimbursing, from the unused amount of financial discipline carried-over, to farmers subject to financial discipline during the preceding financial year on the other hand,