COMMISSION IMPLEMENTING REGULATION (EU) No 964/2013

of 9 October 2013

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

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy [1], and in particular Article 18(4) thereof,

After consulting the Committee on the Agricultural Funds,

Whereas:

(1) Article 11(1) of Council Regulation (EC) No 73/2009 [2] 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 to be adopted by the Council pursuant to Article 312(2) of the Treaty on the Functioning of the European Union (Treaty). 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 had to determine that adjustment by 30 June.

(2) The forecasts for the direct payments and market related expenditure determined in the Commission 2014 Draft Budget have shown the need for financial discipline. The Draft Budget has been established taking into account an amount of financial discipline of EUR 1 471,4 million, including an amount for the reserve for crises in the agricultural sector. An adjustment rate to the direct payments listed in Annex I to Regulation (EC) No 73/2009 has therefore to be determined.

(3) On 25 March 2013 the Commission adopted a 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]. The European Parliament and the Council had not determined that adjustment by 30 June, as provided for in Article 11(2) of Regulation (EC) No 73/2009. Therefore, in accordance with Article 18(4) of Regulation (EC) No 1290/2005 if by 30 June those adjustments have not been set, the Commission has to set them.

(4) The Council Regulation laying down the multiannual financial framework pursuant to Article 312(2) of the Treaty has not yet been adopted. Therefore, as a precautionary measure, the annual ceiling of EUR 44 130 million for financial year 2014, as foreseen in the political agreement reached on 27 June 2013 between Parliament, the Council Presidency and the Commission on the Multiannual Financial Framework 2014–20, should be used for the calculation of the adjustment referred above.

(5) In accordance with Article 18(5) of Regulation (EC) No 1290/2005, the adjustment rate may be adapted by the Council on a proposal by the Commission by 1 December 2013, on the basis of new information in its possession. In the event of new information, the Commission will propose the adaptation of the adjustment rate in the autumn, in the context of the Amending Letter to the Draft Budget 2014 taking into account the new information available. The Council may then adapt the adjustment rate by 1 December 2013.

(6) 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 is only 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 to farmers is made.

[1] OJ L 209, 11.8.2005, p. 1.

[2] 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 (OJ L 30, 31.1.2009, p. 16).

[3] COM(2013) 159 final.

(7) In the political agreement on the CAP reform of 26 June 2013, it has been decided that financial discipline will apply to the direct payments in excess of EUR 2 000. Moreover it is also foreseen that the reimbursement of unused appropriations (if any) at the end of financial year would be paid to farmers subject to financial discipline the following year. In order to ensure consistency, it is appropriate to set the same threshold over the years. The financial discipline should be applied in a similar way for calendar year 2013 to be consistent with what has been agreed to apply in the future; therefore, it is appropriate to provide for the application of the adjustment rate only for amounts in excess of EUR 2 000.

(8) 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.

(9) Regulation (EC) No 73/2009 has been adapted by the Act 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,

HAS 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 2 000 for an aid application submitted in respect of calendar year 2013 shall be reduced by 4,001079 %.

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*.

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

Done at Brussels, 9 October 2013.

For the Commission
The President
José Manuel BARROSO