



EUROPEAN COMMISSION

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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Regulation (EC) No 1217/2009 setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the European Community

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

To align the Commission implementing powers in Council Regulation (EC) No 1217/2009¹ to the differentiation between delegated and implementing powers of the Commission introduced by Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFUE).

- **General context**

Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFUE) distinguish two different types of Commission acts:

- Article 290 of the TFUE allows the legislator to delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act. Legal acts adopted by the Commission in this way are referred to in the terminology used by the Treaty as "delegated acts" (Article 290(3) of the TFUE).
- Article 291 of the TFUE allows Member States to adopt all measures of national law necessary to implement legally binding Union acts. Those acts can confer implementing powers on the Commission where uniform conditions for implementing them are needed. Legal acts adopted by the Commission in this way are referred to in the terminology used by the Treaty as "implementing acts" (Article 291(4) of the TFUE).

- **Existing provisions in the area of the proposal**

Articles 290 and 291 of the TFUE.

- **Consistency with the other policies and objectives of the Union**

Not applicable.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

- **Collection and use of expertise**

- **Impact assessment**

There was no need for consultation of interested parties, collection and use of expertise or an impact assessment since the proposal to align Council Regulation

¹ OJ L 328, 15.12.2009, p. 27.

(EC) No 1217/2009 to the Lisbon Treaty is an inter-institutional matter that will concern all Council Regulations. Furthermore, the amendments aiming at simplification and adaptation of Council Regulation (EC) No 1217/2009 in light of the experience gained with its application are of limited scope.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

Identify the delegated and implementing powers of the Commission in Council Regulation (EC) No 1217/2009 and establish the corresponding procedure for adoption of these acts.

Additionally, for the sake of simplification and in the light of the experience gained with the application of Council Regulation (EC) No 1217/2009, it is proposed that some of the provisions of that Regulation should be altered or deleted.

- **Legal basis**

Article 43 of the TFUE.

- **Subsidiarity principle**

Agricultural policy is of shared competence between the EU and the Member States. This means that as long as the EU does not legislate in the sector Member States maintain their competence. The Farm Accountancy Data Network (FADN) exists since 1965, and it is justified to simplify the current rules and adapt them in light of the experience gained with the application of Council Regulation (EC) No 1217/2009.

- **Proportionality principle**

The proposal complies with the proportionality principle.

- **Choice of instruments**

Proposed instrument: Regulation of the European Parliament and of the Council.

Other means would not be adequate for the following reason: a Regulation must be amended by a Regulation.

4. BUDGETARY IMPLICATIONS

This measure does not involve any additional Union expenditure.

5. ADDITIONAL INFORMATION

- **Simplification and adaptation in light of the experience gained with the application of Council Regulation (EC) No 1217/2009**

As further explained below, the Regulation contains certain provisions dating back to the time of adoption of Regulation No 79/65/EEC of the Council of 15 June 1965 setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the European Economic Community² that are no longer reflected in the current environment and structure of the FADN.

Indeed, the reports based on FADN are no longer submitted to the European Parliament and the Council for the purpose of annual fixing of prices of agricultural produce. The current provision that reports shall be submitted annually to the European Parliament and the Council is therefore obsolete. However, in order to provide convenient access to the data and reports based on FADN to other institutions as well as to the public such information should be published on a public website.

The Commission does also not require the Member States to provide returning holdings with a list of accountancy offices to select from but most holdings have their own accountant / accounting office that provides the FADN with the data or data is collected directly by the liaison office or its contractors. Furthermore, budgetary control of expenses to be paid for delivery of farm returns is controlled by a separate budgetary procedure and should therefore no longer be included in this Regulation.

Since both surveys mentioned in the Regulation, i.e. for the determination of incomes of agricultural holdings on the one hand and for business analysis of agricultural holdings on the other hand, are subject to essentially the same rules, it is appropriate to merge the provisions applicable for both types of surveys.

Annex I to the Regulation contains a list of divisions for each Member State. This list is to be amended by the Commission upon request of the relevant Member State. Such a list of divisions, including the number of holdings to be selected for each division, is also set out in the Annex to Commission Regulation (EU) 1291/2009 of 18 December 2009 concerning the selection of returning holdings for the purpose of determining incomes of agricultural holdings³. It is suggested, considering the rather technical nature of the Annex I to this Regulation and the need for flexibility to adapt such list of divisions, that Annex I to this Regulation is removed from this Regulation and the Commission will be henceforth empowered to define the list of divisions by way of delegated acts.

² OJ 109, 23.6.1965, p. 1859.

³ OJ L 347, 24.12.2009, p. 14.

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amending Council Regulation (EC) No 1217/2009 setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the European Community

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 Commission⁴,

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

Having regard to the opinion of the European Economic and Social Committee⁵,

Acting in accordance with the ordinary legislative procedure⁶,

Whereas:

- (1) Council Regulation (EC) No 1217/2009⁷ confers powers on the Commission in order to implement some of the provisions of that Regulation.
- (2) As a consequence of the entry into force of the Lisbon Treaty, the powers conferred under Regulation (EC) No 1217/2009 upon the Commission need to be aligned to Articles 290 and 291 of the Treaty on the Functioning of the European Union (the Treaty).
- (3) In order to supplement or amend certain non-essential elements of Regulation (EC) No 1217/2009, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the establishment of the list of divisions per Member State, the determination of the threshold for the economic size and the number of returning holdings per division, the adoption of further rules on the qualification of returning holdings, the determination of the further content of the plan for the selection of returning holdings, the adoption of further rules on the activities of Member States' National Committees for the data network, the adoption of further rules on the tasks of Member States' liaison agencies, and the adoption of rules on the accountancy data to be included in the farm return. It is of particular importance that

⁴ OJ C [...], [...], p. [...].

⁵ OJ C [...], [...], p. [...].

⁶ OJ C [...], [...], p. [...].

⁷ OJ L 328, 15.12.2009, p. 27.

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.

- (4) In order to ensure uniform conditions for the implementation of Regulation (EC) No 1217/2009 and to avoid discrimination between farmers, implementing powers should be conferred on the Commission in respect of the adoption of rules on the standard fee in the Farm Accountancy Data Network (FADN). Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers⁸.
- (5) For the sake of simplification and in the light of the experience gained with the application of Regulation (EC) No 1217/2009 some of the provisions of that Regulation should be adapted or deleted.
- (6) According to Article 1(3) of Regulation (EC) No 1217/2009, reports based on FADN data are to be submitted annually to the European Parliament and the Council, in particular for the annual fixing of prices of agricultural produce. However, such reports are in practice no longer submitted to those institutions for the purpose of fixing prices of agricultural produce. In order to ensure simple and convenient access to the annual analytical reports based on FADN for use by other institutions and the public, provision should be made that reports covering selected sectors be published on a dedicated website.
- (7) Returning holdings within the framework of FADN are selected on the basis of a list of divisions per Member States. That list is currently laid down in Annex I to Regulation (EC) No 1217/2009. Furthermore, such a list is also set out in the Annex to Commission Regulation (EU) 1291/2009 of 18 December 2009 concerning the selection of returning holdings for the purpose of determining incomes of agricultural holdings⁹. For the sake of simplification, it is appropriate to avoid a duplication of such lists. In view of the nature of the list of divisions as well as the need for efficient implementation of any changes, Annex I to Regulation (EC) No 1217/2009 should be deleted and the Commission should be empowered to adopt that list by means of delegated acts. Until such a list of divisions will be established by the Commission, the list set out in the Annex to Regulation (EU) No 1291/2009 should be used for the purposes of Regulation (EC) 1217/2009.
- (8) Article 5(3) of Regulation (EC) No 1217/2009 lays down a maximum number of returning holdings. The purpose of that provision is to set a budgetary limit on the collection of FADN data. As this purpose is ensured by the procedure for the annual preparation and adoption of the Union's budget, the limit laid down in Article 5(3) of Regulation (EC) No 1217/2009 is no longer needed.

⁸ OJ L 55, 28.2.2011, p. 13.

⁹ OJ L 347, 24.12.2009, p. 14.

- (9) Chapter II of Regulation (EC) No 1217/2009 contains rules on the determination of incomes of agricultural holdings, while the rules on business analysis of agricultural holdings are established in Chapter III of that Regulation. Since both types of surveys are subject to essentially the same rules and with a view to simplifying those rules, it is appropriate to merge those provisions applicable to both types of surveys.
- (10) Regulation (EC) No 1217/2009 contains further provisions which no longer reflect the practice under that Regulation. In particular, the Commission does not require the Member States to provide returning holdings with a list of accountancy offices to select from, as most holdings have their own accountant or accountancy office providing the FADN with the data or data is collected directly by the liaison office or its contractors. Furthermore, reports on the implementation of the plan for the selection of returning holdings approved by National Committees are no longer required by the Commission.
- (11) Regulation (EC) No 1217/2009 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1217/2009 is amended as follows:

- (1) In Article 1, paragraph 3 is replaced by the following:

"3. The data obtained pursuant to this Regulation shall, in particular, serve as the basis for the drawing up of reports by the Commission on the situation of agriculture and of agricultural markets as well as on farm incomes in the Union. Those reports shall be made publicly available."

- (2) Article 2 is amended as follows:

- (a) In point (a) the word "operator" is replaced by "farmer"

- (b) Point (b) is replaced by the following:

"(b) "category of holding" means a group of agricultural holdings which belong to the same categories as regards the type of farming and economic size as defined in the Union typology for agricultural holdings;"

- (c) Point (d) is replaced by the following:

"(d) "division" means the territory of a Member State, or any part thereof as delimited with a view to the selection of returning holdings;"

- (3) Article 3 is replaced by the following:

"Article 3

The Commission shall be empowered to adopt delegated acts in accordance with Article 19a for the purpose of establishing the list of divisions per Member State.

Until the establishment of that list of divisions by the Commission, the divisions shall be those set out in the Annex to Commission Regulation (EU) No 1291/2009*.

* OJ L 347, 24.12.2009, p. 14."

- (4) The title of the Chapter II is replaced by the following:

"DATA FOR THE DETERMINATION OF INCOMES AND THE BUSINESS ANALYSIS OF AGRICULTURAL HOLDINGS"

- (5) Article 4 is replaced by the following:

"Article 4

This Chapter shall apply to the collection of accountancy data for the purpose of making an annual determination of incomes and a business analysis of agricultural holdings.

Those data shall be collected by means of regular and special surveys."

- (6) Article 5 is amended as follows:

- (a) Paragraph 1 is replaced by the following:

"1. The field of the survey referred to in Article 1(2) shall cover the agricultural holdings having an economic size equal to, or greater than, a threshold expressed in euro corresponding to one of the lower limits of the economic size classes as defined in the Union typology for agricultural holdings."

- (b) Paragraph 3 is deleted.

- (c) Paragraph 4 is replaced by the following:

"4. The Commission shall be empowered to adopt delegated acts in accordance with Article 19a for the purpose of determining the threshold for the economic size and the number of returning holdings per division as well as in order to adopt further rules on the qualification of returning holdings."

- (7) The following Article 5a is inserted:

"Article 5a

1. Each Member State shall draw up a plan for the selection of returning holdings. That plan shall ensure that a representative accounting sample of the field of survey is obtained.

The plan for the selection of returning holdings shall specify in particular the distribution of returning holdings per category of holding and the detailed rules for the selection of the relevant holdings.

It shall be drawn up on the basis of the most recent statistical data and presented in accordance with the Union typology for agricultural holdings.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 19a for the purpose of determining the further content of the plan for the selection of returning holdings."

(8) Article 6 is amended as follows:

(a) Paragraph 2 is replaced by the following:

"2. The National Committee shall be responsible for the selection of returning holdings. To this end, its duties shall, in particular, include approval of the plan for the selection of returning holdings."

(b) Paragraph 5 is replaced by the following:

"5. The Commission shall be empowered to adopt delegated acts in accordance with Article 19a for the purpose of adopting further rules on the activities of the National Committees."

(9) Article 7 is replaced by the following:

"Article 7

1. Each Member State shall appoint a liaison agency whose tasks shall be to:

(a) inform the National Committee, the Regional Committees and the accountancy offices of the regulatory framework applicable to them and to ensure proper implementation thereof;

(b) draw up and submit to the National Committee for its approval, and thereafter to forward to the Commission the plan for the selection of returning holdings;

(c) compile:

(i) the list of returning holdings;

(ii) if applicable, the list of the accountancy offices willing and able to complete farm returns in accordance with the terms of the contracts provided for in Article 10;

- (d) assemble the farm returns sent to it by the accountancy offices;
- (e) verify that the farm returns have been duly completed;
- (f) forward the duly completed farm returns to the Commission in the required format and within a set deadline;
- (g) transmit to the National Committee, the Regional Committees and the accountancy offices the requests for information provided for in Article 17 and to forward the relevant answers to the Commission.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 19a for the purpose of adopting further rules on the tasks of the liaison agencies."

(10) In Article 8, paragraphs 2 and 3 are replaced by the following:

"2. The accountancy data provided by each duly completed farm return shall be such that it is possible to:

- characterise the returning holding by reference to the main elements of its factors of production;
- assess the income of the holding in its various forms;
- test by means of spot-checks the veracity of the information given.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 19a concerning rules on the type of accountancy data to be given in a farm return, the form in which such data are to be presented and the definitions and instructions relating thereto."

(11) Article 9 is replaced by the following:

"Article 9

A farmer whose holding is selected as a returning holding shall provide the accountancy data to an accountancy office willing to complete the farm return for his holding in accordance with the terms of the contract provided for in Article 10."

(12) Article 10 is amended as follows:

(a) Paragraph 1 is replaced by the following:

"1. A contract shall be concluded on the authority of the Member State between the competent authority designated by the latter and each accountancy office. Under that contract the accountancy office shall undertake to complete farm returns in a manner consistent with Article 8."

(b) Paragraph 2 is deleted.

- (13) Chapter III is deleted.
- (14) Article 18 is deleted.
- (15) Article 19 is amended as follows:
- (a) In paragraph 1, point (a) is replaced by the following:
"(a) a standard fee payable to the Member States for the delivery of duly completed farm returns delivered within the set deadline".
 - (b) The following paragraph 3 is added:
"3. The Commission shall, by means of implementing acts, adopt rules on the standard fee referred to in point (a) of paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19b(2)."
- (16) The following Articles 19a and 19b are inserted:

"Article 19a

"1. The power to adopt the delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The delegation of power referred to in Articles 3, 5(4), 5a(2), 6(5), 7(2) and 8(3) shall be conferred on the Commission for an indeterminate period of time from [1 January 2013].

3. The delegation of powers referred to in Articles 3, 5(4), 5a(2), 6(5), 7(2) and 8(3) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 3, 5(4), 5a(2), 6(5), 7(2) and 8(3) 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 the Council.

Article 19b

1. The Commission shall be assisted by a Committee called "Committee for the Farm Accountancy Data Network". That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011*.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

* OJ L 55, 28.2.2011, p. 13."

(17) Annex I is deleted.

Article 2

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

It shall apply from [1 January 2013.]

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

Done at [...],

For the European Parliament
The President

For the Council
The President

FINANCIAL STATEMENT		FinancSt/1193974 EM/nh/ 4.1.2011		
		DATE: 14.10.2011		
1.	BUDGET HEADING: Title 05: Agriculture and Rural development	APPROPRIATIONS: CA: 57 292.3 M€ PA: 55 269.1 M€		
2.	TITLE: Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1217/2009 of 30 November 2009 setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the European Community.			
3.	LEGAL BASIS: Treaty on the Functioning of the European Union, Article 43(2).			
4.	AIMS: Identify the delegated and implementing powers of the Commission in Council Regulation (EC) No 1217/2009 and establish the corresponding procedure for adoption of these acts (align the Council Regulation with the Treaty of Lisbon).			
5.	FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR [2011] (EUR million)	FOLLOWING FINANCIAL YEAR [2012] (EUR million)
5.0	EXPENDITURE - CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER	-	-	-
5.1	REVENUE - OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES) - NATIONAL	-	-	-
		[2013]	[2014]	[2015]
5.0.1	ESTIMATED EXPENDITURE	-	-	-
5.1.1	ESTIMATED REVENUE	-	-	-
5.2	METHOD OF CALCULATION:			
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?			YES NO
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?			YES NO
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?			YES NO
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?			YES NO
OBSERVATIONS: The objective of this proposal is to align the Council Regulation with the Treaty of Lisbon; it is therefore without impact on budgetary expenditure.				