

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, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (repealed)

TITLE V

IMPLEMENTATION OF DIRECT PAYMENTS IN THE NEW MEMBER STATES

CHAPTER 4

Complementary national direct payments and direct payments

Article 132

Complementary national direct payments and direct payments

1 For the purposes of this Article, ‘CAP-like national scheme’ shall mean any national direct payment scheme applicable prior to the date of accession of the new Member States under which the support was granted to farmers in respect of production covered by one of the direct payments.

2 The new Member States shall have the possibility, subject to authorisation by the Commission, to complement any direct payments:

- a with regard to all direct payments, up to 30 percentage points above the applicable level referred to in Article 121 in the relevant year. As far as Bulgaria and Romania are concerned, the following shall apply: 65 % of the level of direct payments in the Community as constituted on 30 April 2004 in 2009 and from 2010 up to 50 percentage points above the applicable level referred to in the second paragraph of Article 121 in the relevant year. However, the Czech Republic may complement direct payments in the potato starch sector up to 100 % of the level applicable in the Member States other than the new Member States. For the direct payments referred to in Chapter 7 of Title IV of Regulation (EC) No 1782/2003, the new Member States may complement the direct payments up to 100 %. As far as Bulgaria and Romania are concerned, the following maximum rates shall apply: 95 % in 2009 and 100 % as from 2010;

or

- b (i) with regard to direct payments other than the single payment scheme, up to the total level of direct support the farmer would have been entitled to receive, on a product by product basis, in the new Member State in the calendar year 2003 under a CAP-like national scheme increased by 10 percentage points. However, for Lithuania, the reference year shall be the calendar year 2002. For Bulgaria and Romania, the reference year shall be the calendar year 2006. For Slovenia, the increase shall be 25 percentage points;
- (ii) with regard to the single payment scheme, up to the total amount of complementary national direct aid which may be granted by a new Member

Status: Point in time view as at 01/01/2014.

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State in respect of a given year shall be limited by a specific financial envelope. This envelope shall be equal to the difference between:

- the total amount of CAP-like national direct support that would be available in the relevant new Member State in respect of the calendar year 2003 or, in the case of Lithuania, of the calendar year 2002, each time increased by 10 percentage points. However, for Bulgaria and Romania, the reference year shall be the calendar year 2006. For Slovenia, the increase shall be 25 percentage points, and
- the national ceiling of that new Member State listed in Annex VIII adjusted, where appropriate, in accordance with Article 51(2).

[^{X1}For the purpose of calculating the total amount referred to in the first indent of this subpoint, the national direct payments or their components corresponding to the Community direct payments or their components which were taken into account for calculating the effective ceiling of the new Member State concerned in accordance with Article 40 and Article 51(2) shall be included.

For each direct payment concerned, a new Member State may choose to apply either point (a) or (b) of the first subparagraph.

[^{F1}By way of derogation from points (a) and (b) of the first subparagraph, Croatia shall have the possibility to complement direct payments up to 100 % of the level applicable in Member States other than the new Member States.]

The total direct support which a farmer may be granted in the new Member States after accession under the relevant direct payment, including all complementary national direct payments, shall not exceed the level of direct support a farmer would be entitled to receive under the corresponding direct payment then applicable to the Member States in the Member States other than the new Member States, [^{X1}taking into account, from 2012], the application of Article 7 in conjunction with Article 10.]

3 Cyprus may complement the direct aid paid to a farmer under any direct payments for the support schemes listed in Annex I up to the total level of support the farmer would have been entitled to receive in Cyprus in 2001.

The Cypriot authorities shall ensure that the total direct support a farmer is granted after accession in Cyprus under the relevant direct payment, including all complementary national direct payments, in no event exceeds the level of direct support a farmer would be entitled to receive under that direct payment in the relevant year in the Member States other than the new Member States.

The total amounts of complementary national aid to be granted shall be those indicated in Annex XVI.

The complementary national aid to be granted shall be subject to any adjustments which may be rendered necessary by developments in the CAP.

Paragraphs 2 and 5 shall not apply to Cyprus.

4 If a new Member State decides to apply the single area payment scheme, that new Member State may grant complementary national direct aid under the conditions referred to in paragraphs 5 and 8.

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5 The total amount of complementary national aid granted in that year when applying the single area payment scheme may be limited by a specific financial envelope per (sub)sector provided that such a (sub)sector specific financial envelope may only relate to:

- a the combined direct payments to the single payment scheme; and/or
- b for 2009, one or more of the direct payments that are excluded or may be excluded from the single payment scheme in accordance with Article 70(2) of Regulation (EC) No 1782/2003 or may be subject to partial implementation as referred to in Article 64(2) of that Regulation;
- c from 2010, one or more of the direct payments that may be subject to partial implementation or specific support as provided for in Article 51(2) and Article 68 of this Regulation.

This envelope shall be equal to the difference between:

- a the total amount of support per (sub)sector resulting from the application of point (a) or (b) of the first subparagraph of paragraph 2, as appropriate; and
- b the total amount of direct support that would be available in the relevant new Member State for the same (sub)sector in the year concerned under the single area payment scheme.

6 The new Member State may decide, on the basis of objective criteria and after authorisation by the Commission, on the amounts of complementary national aid to be granted.

7 The authorisation by the Commission shall:

- a where point (b) of the first subparagraph of paragraph 2 applies, specify the relevant CAP-like national direct payment schemes;
- b define the level up to which the complementary national aid may be paid, the rate of the complementary national aid and, where appropriate, the conditions for the granting thereof;
- c be granted subject to any adjustments which may be rendered necessary by developments in the CAP.

8 No complementary national payments or aid shall be granted for agricultural activities in respect of which direct payments are not provided for in the Member States other than the new Member States.

Editorial Information

- X1** Substituted by [Corrigendum to 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, amending Regulations \(EC\) No 1290/2005, \(EC\) No 247/2006, \(EC\) No 378/2007 and repealing Regulation \(EC\) No 1782/2003 \(Official Journal of the European Union L 30 of 31 January 2009\)](#).

Textual Amendments

- F1** Inserted by [Treaty between the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and](#)

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Northern Ireland (Member States of the European Union) and the Republic of Croatia concerning the accession of the Republic of Croatia to the European Union.

Article 133

State aid in Cyprus

Cyprus may, in addition to the complementary national direct payments, grant transitional and digressive national aid until the end of 2012. This State aid shall be granted in a form similar to Community aid, such as decoupled payments.

Taking into account the nature and amount of national support granted in 2001, Cyprus may grant State aid to the (sub)sectors listed in Annex XVII and up to the amounts specified in that Annex.

The State aid to be granted shall be subject to any adjustments which may be rendered necessary by developments in the CAP. Should such adjustments prove necessary, the amount of the aid or the conditions for the granting thereof shall be amended on the basis of a decision by the Commission.

Cyprus shall submit an annual report to the Commission on the implementation of the State aid measures, indicating the forms of aid and amounts per (sub)sector.

[^{F2}Article 133a

[^{F3}Transitional national aid in 2013]

[^{F2} With the exception of Bulgaria and Romania, the new Member States applying the single area payment scheme shall have the possibility to grant transitional national aid in 2013.

Except in the case of Cyprus, the granting of such aid shall be subject to authorisation by the Commission, to be granted in accordance with paragraph 5.

2 The transitional national aid may be granted to farmers in sectors in respect of which complementary national direct payments and, in the case of Cyprus, State aids have been authorised in 2012 pursuant to Articles 132 and 133.

3 The conditions for granting the aid shall be identical to those authorised for the granting of payments pursuant to Articles 132 and 133 in respect of 2012.

4 The total amount of aid that may be granted to farmers in any of the sectors referred to in paragraph 2 shall be limited by a specific financial envelope per sector, which shall be equal to the difference between:

- a the total direct support which may be granted to farmers in the relevant sector in 2012, including all payments received pursuant to Article 132; and
- b the total amount of direct support that would be available for the same sector under the single area payment scheme in 2013.

For Cyprus, the sector specific financial envelopes are set out in Annex XVIIa.]

5 On the basis of a notification submitted, the Commission shall adopt implementing acts, without applying the procedure referred to in Article 141(2) or 141b(2), authorising the transitional national aid and:

- a setting the financial envelope per sector;

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- b setting the maximum rate of transitional national aid where appropriate;
- c setting the conditions for the granting thereof; and
- d defining the applicable exchange rate to be used for the payments.

6 The new Member States may decide, on the basis of objective criteria and within the limits authorised by the Commission pursuant to paragraph 5, on the amounts of transitional national aid to be granted.]

Textual Amendments

- F2** Inserted by Regulation (EU) No 671/2012 of the European Parliament and of the Council of 11 July 2012 amending Council Regulation (EC) No 73/2009 as regards the application of direct payments to farmers in respect of the year 2013.
- F3** Substituted by Regulation (EU) No 1310/2013 of the European Parliament and of the Council of 17 December 2013 laying down certain transitional provisions on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), amending Regulation (EU) No 1305/2013 of the European Parliament and of the Council as regards resources and their distribution in respect of the year 2014 and amending Council Regulation (EC) No 73/2009 and Regulations (EU) No 1307/2013, (EU) No 1306/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards their application in the year 2014.

[^{F4} Article 133b

Transitional national aid in 2014

1 The new Member States applying the single area payment scheme in accordance with Article 122 may decide to grant transitional national aid in 2014.

2 Bulgaria and Romania may grant aid under this Article only if they decide, by 1 February 2014, not to grant, in 2014, any complementary national direct payments under Article 132.

3 The aid under this Article may be granted to farmers in sectors in respect of which transitional national aid pursuant to Article 133a or, in the case of Bulgaria and Romania, complementary national direct payments pursuant to Article 132 were granted in 2013.

4 The conditions for granting the aid under this Article shall be identical to those authorised for the granting of payments pursuant to Articles 132 or 133a in respect of 2013, with the exception of the reductions due to the application of Article 132(2) in conjunction with Articles 7 and 10.

5 The total amount of aid that may be granted to farmers in any of the sectors referred to in paragraph 3 shall be limited to 80 % of the sector-specific financial envelopes in respect of 2013 authorised by the Commission in accordance with Article 133a(5) or, in the case of Bulgaria and Romania, in accordance with Article 132(7).

For Cyprus, the sector-specific financial envelopes are set out in Annex XVIIa.

6 Paragraphs 3 and 4 shall not apply to Cyprus.

7 The new Member States shall notify the Commission of the decisions referred to in paragraphs 1 and 2 by 31 March 2014. The notification of the decision referred to in paragraph 1 shall include the following information:

- a the financial envelope for each sector;

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b the maximum rate of transitional national aid, where appropriate.

8 The new Member States may decide, on the basis of objective criteria and within the limits authorised by the Commission pursuant to paragraph 5, on the amounts of transitional national aid to be granted.]

Textual Amendments

F4 Inserted by Regulation (EU) No 1310/2013 of the European Parliament and of the Council of 17 December 2013 laying down certain transitional provisions on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), amending Regulation (EU) No 1305/2013 of the European Parliament and of the Council as regards resources and their distribution in respect of the year 2014 and amending Council Regulation (EC) No 73/2009 and Regulations (EU) No 1307/2013, (EU) No 1306/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards their application in the year 2014.

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