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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

on the operation of the system of paying agencies in the agricultural sector

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1. OBJECTIVE OF THE REPORT

Article 7(2) of Regulation (EU) No 1306/2013 requires the Commission to present a report to the European Parliament and to the Council on the operation of the system of paying agencies in the Union accompanied, where appropriate, by legislative proposals.

The competent authority has an obligation to report to the Commission on its supervision and monitoring of the paying agencies' activities. The report shall include a review of the paying agencies' continuous compliance with the accreditation criteria, together with a summary of the actions taken to remedy the deficiencies (Article 2(1) of Commission Implementing Regulation (EU) No 908/2014). This reporting takes place every three years.

This report summarises the results of the analysis of the competent authorities' reports received in June 2016 and possible further actions.

2. BACKGROUND INFORMATION

The European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) are implemented under a shared management system between the Member States and the Union, where the implementation tasks are delegated to the Member States while the Commission retains final responsibility.

The Member States are required to take all the necessary measures to ensure that actions financed from the EU budget are implemented correctly and effectively and in accordance with the EU rules. They are obliged to have systems in place which prevent, detect and correct irregularities and fraud, therefore, Member States, in accordance with Article 7(2) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council, shall accredit as paying agencies departments or bodies which have an administrative organisation and a system of internal control which provide sufficient guarantees that payments are legal and regular, and appropriately accounted for. The paying agencies shall comply with minimum conditions for accreditation with regard to the internal control environment, control activities, information and communication and monitoring laid down by the Commission.

Each Member State shall restrict the number of its accredited paying agencies to no more than one at national level or, where applicable, one per region. Nevertheless, by way of derogation, Member States could maintain the number of paying agencies which have been accredited before 20 December 2013.

The Commission reimburses only the expenditure effected by accredited paying agencies.

Where an accredited paying agency does not meet or no longer meets one or more of the accreditation criteria, the Member State, in accordance with Article 7 (5) of Regulation (EU) No 1306/2013, shall withdraw accreditation, unless the paying agency makes the necessary changes within a period to be determined depending on the severity of the problem.

In accordance with Article 1 (2) of the Commission Implementing Regulation (EU) No 908/2014, the competent authority designated by the Member State decides on

the issuing or the withdrawal of the accreditation of the paying agency on the basis of an examination of the accreditation criteria. The competent authority is obliged to keep the paying agencies under constant supervision and shall follow-up on any deficiencies identified.

3. SITUATION WITH REGARD TO THE OPERATIONS OF THE PAYING AGENCIES

As of 1 October 2017, there are 79 paying agencies in the EU, which make payments for the EAGF and EAFRD. In the majority of cases, the paying agency makes payments for both funds, although in some cases¹, the paying agency deals with only one fund.

In the majority of the Member States, there is only one paying agency in the country. Some countries have more than one paying agency: Austria (2 paying agencies), Belgium (2 paying agencies), Germany (16 paying agencies), Spain (18 paying agencies), France (4 paying agencies), Italy (11 paying agencies), Romania (2 paying agencies) and the UK (4 paying agencies). The full list of paying agencies for EAGF and EAFRD in the EU is provided in Annex I.

It should be noted that since 2013, there was a reduction in the number of paying agencies to the current number of 79. The activities of paying agency BIRB (BE01) were taken over by the two regional paying agencies in Belgium and the two paying agencies in the Netherlands - Dienst Landelijk Gebied (NL01) and Dienst Regelingen (NL03) merged into one paying agency Ondernemend Nederland – RVO (NL04). As of 1 September 2017, there is only one paying agency in Poland as Agricultural Market Agency (PL02) ceased to operate as a paying agency.

The level of expenditure per paying agency in the EU varies significantly. In financial year 2016, the French paying agency Agence de services et de paiement (FR19) had the highest spending (6.6 billion €) while the German paying agencies Hamburg-Jonas (DE02) and SAISA (IT02) had only recoveries. Italian paying agency ENR (IT03) had no expenditure during the last three financial years. Austrian paying agency Zollamt Salzburg (AT03) had almost zero expenditure for the last three years. The level of expenditure depends on whether the paying agency is involved in a large number of schemes/measures or only in very specific schemes (e.g. expenditure for public storage), therefore performing a narrow function. The expenditure for the last three financial years per paying agency and per fund is provided in Annex II.

Recent developments with the number of paying agencies:

- 1) Austria: the authorities are considering the closing down of the paying agency Zollamt Salzburg (AT03), probably at the end of the financial year 2017.
- 2) Germany: the German authorities decided to close down the paying agency Hamburg (DE09) as soon as the closure of the EAFRD 2007-2013 programs and the clearance of accounts for EAGF for financial year 2016 are finalised. According to German authorities this is done because of constantly increasing

¹ Zollamt Salzburg (AT03), Hamburg-Jonas (DE02), Etablissement national des produits de l'agriculture et de la mer (FR05), Office du Développement Agricole et Rural de Corse (FR18), Etablissement national des produits de l'agriculture et de la mer (FR20), Servizio Autonomo Interventi Settore Agricolo (IT02), Rural Investment Financing Agency (RO01) and Paying and Intervention Agency for Agriculture (RO02).

costs for this paying agency, while at the same time the volume of aid to be paid out has declined.

The following conclusions could be drawn regarding the paying agencies:

- 1) Number of accredited paying agencies in the Member States: Article 7 of Regulation (EU) No 1306/2013 required that each Member State should limit the number of its accredited paying agencies to no more than one at a national level or, where applicable, to one per region. Poland and Romania have two paying agencies each, though they are not linked to a specific region. The Polish authorities have taken steps to merge its two paying agencies. For Romania, the paying agencies each manage a Fund, EAGF and EAFRD respectively; the single application and Integrated Administration and Control System (IACS) for both funds would suggest having only one paying agency.
- 2) Reasons to have small or dormant paying agencies: according to Article 7 of Regulation (EU) No 1306/2013, Member States must limit the number of paying agencies. If a Member State closes down a paying agency, it will not be possible to open a new one in the future. As a result the current legislation, which should encourage reducing the number of paying agencies in each Member State, has, in some cases, the opposite effect with small, in terms of expenditure, or even dormant agencies maintained in operation.
- 3) Reduction in number of paying agencies: some Member States (Austria, Germany and Poland) undertook steps to reduce the number of paying agencies.
- 4) Cost of controls involved in managing and controlling the EU funds: the Member States report the cost of controls to the Commission and in one case (Hamburg (DE09)), the costs of control reported, including the administrative costs of the paying agency, are higher than the amount of the EU funds managed by the paying agency, raising the question whether the management and control system in the Member States is adequate. As mentioned above, the high costs compared to the level of funds managed are the reasons given by the German authorities for closing down the paying agency in Hamburg.

4. SUPERVISION OF ACCREDITATION OF THE PAYING AGENCIES

The competent authority designated by each Member State is charged with the issuance, review and withdrawal of the accreditation of paying agencies. The competent authority is also obliged to keep the paying agencies under constant supervision and shall follow-up on any deficiencies identified. According to Article 2(1) of Commission Implementing Regulation (EU) No 908/2014, the competent authority has an obligation to report to the Commission on its supervision and monitoring of the paying agencies' activities. The report shall include a review of the paying agencies' continuous compliance with the accreditation criteria, together with a summary of the actions taken to remedy the deficiencies.

The latest reporting from the competent authorities covered the financial years 2013-2015 and was due for submission to the Commission on 30 June 2016. All Member States provided the required information, though, in the case of two Member States, the reports were submitted after the deadline. The reporting covered the competent

authority's supervisory activities carried out directly or indirectly by the certification body and other external bodies independent from the paying agencies, on behalf of the competent authority. Each competent authority also provided its view on whether the number of the paying agencies was sufficient.

The present situation does not indicate major compliance issues. The following conclusions could be drawn on continued compliance:

- 1) Compliance with the accreditation criteria: in all cases, the competent authority stated that the paying agency complies with the accreditation criteria. For 66 paying agencies (out of 80 for which the reports were provided in 2016), the compliance with the accreditation criteria was rated as very high.
- 2) Assessment of the supervision exercise: the competent authority builds the conclusions regarding the accreditation criteria on the work performed by the certification body. In some cases, the whole accreditation chapter has been copied in from the certification body's report, therefore raising doubts on whether the objective of this exercise was understood.
- 3) The review of the communications received from the competent authorities on continued supervision revealed in many cases that the supervision is not continuous. Rather, it is an ad hoc exercise that takes place once every three years. Often, the competent authority just outsources the review to another body or a private company and later forwards the report to the Commission. In other situations, the continued compliance report is merely a follow-up or update of the status of outstanding recommendations made by the certification body in its last annual report. In these cases, there is no indication of the ongoing continuous supervision or monitoring that should have taken place.
- 4) In the case of dormant paying agencies, it is not easy for the competent authority to assure that the paying agency meets the accreditation criteria when the paying agency has not carried out any payments for several years in a row. It also raises a question on how quickly the dormant paying agency could become operational because of various practical reasons like outdated procedures, IT systems and not having experienced staff.

5. CONCLUSIONS AND FURTHER ACTIONS

The Commission welcomes the steps taken by the certain Member States to reduce the number of paying agencies.

Following the analysis of the situation with the operation of the paying agency system in the EU in the agricultural sector, the Commission intends to take the following action:

- 1) Although there is derogation for paying agencies in existence before 20 December 2013, the Commission may initiate discussions with the Member States concerned on whether the structure put in place is appropriate and whether paying agencies with little or no expenditure should continue to exist.

- 2) Follow up with the relevant competent authorities to ensure that proper and regular supervision is in place.
- 3) Not to propose, at this stage, any modifications to the current legal acts concerning the set-up, numbers of and operations of the paying agencies.