

**Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No**

**1306/2013**

2018/0217(COD)

DRAFT version

Custer 3 Performance, Cluster 7 Conditionality

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 2				
116	Article 2 Definitions	Article 2 Definitions  Performance		Article 2 Definitions  Text Origin: EP Mandate
Article 2, first paragraph, introductory part				
117	For the purposes of this Regulation, the following definitions apply:	For the purposes of this Regulation, the following definitions apply:  Performance		For the purposes of this Regulation, the following definitions apply:  Text Origin: Commission Proposal
Article 2, first paragraph, point (a)				
118	(a) "irregularity" means an irregularity within the meaning of Article 1(2) of Regulation (EC, Euratom) No 2988/95;	(a) "irregularity" means an irregularity within the meaning of Article 1(2) of Regulation (EC, Euratom) No 2988/95;  Performance		(a) "irregularity" means an irregularity within the meaning of Article 1(2) of Regulation (EC, Euratom) No 2988/95;  Text Origin: Commission Proposal
Article 2, first paragraph, point (b)				

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119	(b) "governance systems" means the governance bodies referred to in Chapter II of Title II of this Regulation and the basic Union requirements laid down in this Regulation and Regulation (EU) .../... [CAP Strategic Plan Regulation], including the reporting system put in place for the purposes of the annual performance report referred to in Article 121 of Regulation (EU) .../... [CAP Strategic Plan Regulation];	(b) "governance systems" means the governance bodies referred to in Chapter II of Title II of this Regulation and the basic Union requirements laid down in this Regulation and Regulation (EU) .../... [CAP Strategic Plan Regulation], including <u>Member States' obligations with regard to the effective protection of the financial interests of the Union referred to in Article 57 of this Regulation and</u> the reporting system put in place for the purposes of the annual performance <u>monitoring referred to in Article 38a of this Regulation and the multiannual performance review</u> <del>report</del> referred to in Article 121 of Regulation (EU) .../... [CAP Strategic Plan Regulation];  Performance		(b)
Article 2, first paragraph, point(c)				
120	(c) "basic Union requirements" means the requirements laid down in Regulation (EU) .../... [CAP Strategic Plan Regulation] and in this Regulation.	(c) "basic Union requirements" means the requirements laid down in Regulation (EU) .../... [CAP Strategic Plan Regulation] and in this Regulation, <u>in Regulation (EU) 2018/1046 (Financial Regulation) and in Directive 2014/24/EU (Public Procurement Directive)</u> ;	(c) "basic Union requirements" means the requirements laid down in Regulation (EU) .../... [CAP Strategic Plan Regulation] and in this Regulation-;	(c) "basic Union requirements" means the requirements laid down in Regulation (EU) .../... [CAP Strategic Plan Regulation] and in this Regulation, in Regulation (EU) 2018/1046 (Financial Regulation) and in Directive 2014/24/EU (Public Procurement Directive);

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		Performance		Text Origin: EP Mandate
Article 2, first paragraph, point(d)				
y	120a	Performance Governance	(d) "serious deficiencies in the functioning of the governance systems" means the existence of a systemic weakness, taking into account its recurrence, gravity and compromising effect on the correct declaration expenditure, the report of outputs and results, or the respect of the Union law.	(ca)
Article 2, first paragraph, point (cb)				
y	120b	<u>(cb) "Union requirements" means the basic Union requirements and the eligibility rules stemming from Regulation (EU) .../... [CAP Strategic Plan Regulation] contained in the CAP strategic plan of the Member State;</u>  Performance		(cb)
Article 2, first paragraph, point (cc)				
g	120c	<u>(cc) "output indicator" means output indicator as defined in point 12 of Article 2 of Regulation (EU) .../... [CPR Regulation];</u>  Performance		(cc) "output indicator" means output indicator as referred to in paragraph 1 of Article 7 of Regulation (EU) .../... [Strategic Plans Regulation];

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	Article 2, first paragraph, point (cd)			
G	120d	<p><u>(cd) "result indicator" means result indicator as defined in point 13 of Article 2 of Regulation (EU) .../... [CPR Regulation];</u></p> <p>Performance</p>		(cd) "result indicator" means result indicator as referred to in paragraph 1 of Article 7 of Regulation (EU) .../... [Strategic Plans Regulation];
	Article 2, first paragraph, point (ce)			
Y	120e	<p><u>(ce) "serious deficiency" means serious deficiency as defined in point 30 of Article 2 of Regulation (EU) .../... [CPR Regulation];</u></p> <p>Performance</p>		(ce)
	Article 2, first paragraph, point (cf)			
G	120f	<p><u>(cf) "intermediate body" means intermediate body as defined in point 7 of Article 2 of Regulation (EU) .../... [CPR Regulation];</u></p> <p>Performance</p>		(cf) "intermediate body" means intermediate body as defined in point g of Article 3 of Regulation (EU) .../... [Strategic Plans Regulation];
	Article 2, first paragraph, point (cg)			
Y	120g	<p><u>(cg) "action plan" means action plan as referred to in Article 39(1) and Article 40(1) of this Regulation.</u></p>		(cg)

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		Performance		
Article 7, first paragraph, introductory part				
149	The Funds may, either on the initiative of the Commission or on its behalf, each directly finance the preparatory, monitoring, administrative and technical support activities, and the evaluation, audit and inspection, required to implement the CAP. In particular, they shall include:	The Funds may, either on the initiative of the Commission or on its behalf, each directly finance the <u>increased</u> preparatory, monitoring, administrative and technical support activities, and the evaluation, audit and inspection, required to implement the CAP. <u>The EAFRD contribution referred to in Article 86(3) of Regulation (EU) .../... [CAP Strategic Plan Regulation] shall take into account the increase in administrative capacity building as regards the new governance and control systems in the Member States</u> . In particular, they shall include:  Financial management Performance		The Funds may, either on the initiative of the Commission or on its behalf, each directly finance the preparatory, monitoring, administrative and technical support activities, and the evaluation, audit and inspection, required to implement the CAP. In particular, they shall include:
Article 8(3), first subparagraph, introductory part				
171	3. For the purposes of Article 63(5) and (6) of Regulation (EU, Euratom) 2018/... [the new Financial Regulation] ('the Financial Regulation'), the person in charge of the accredited paying agency shall, by 15 February of the year following the financial year concerned, draw	3. For the purposes of Article 63(5) and (6) of Regulation (EU, Euratom) <del>2018/... [the new Financial Regulation]</del> <u>2018/1046</u> ('the Financial Regulation'), the person in charge of the accredited paying agency shall, by 15 February of the year following the financial year		3.

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	up and provide the Commission with the following:	concerned, draw up and provide the Commission with the following:  <b>Performance</b>		
Article 8(3), first subparagraph, point (a)				
6	172  (a) the annual accounts for the expenditure incurred in carrying out the tasks entrusted to their accredited paying agency, as provided for in point (a) of Article 63(5) of the Financial Regulation, accompanied by the requisite information for their clearance in accordance with Article 51;	(a) the annual accounts for the expenditure incurred in carrying out the tasks entrusted to their accredited paying agency, as provided for in point (a) of Article 63(5) of the Financial Regulation, accompanied by the requisite information for their clearance in accordance with Article 51;  <b>Performance</b>		
Article 8(3), first subparagraph, point(b)				
y	173  (b) the annual performance report referred to in Article 52(1) showing that the expenditure was made in accordance with Article 35;	(b) <del>the an</del> annual <u>summary of the final audit reports and of controls carried out, including their outcome and an analysis of the nature and extent of errors and weaknesses identified in systems by audit and controls, as well as corrective action taken or planned, as provided for in point (b) of performance report referred to in Article 52(1) showing that the expenditure was made in accordance with Article 63(5) of the Financial Regulation</u> <del>35</del> ;	(b) the annual performance report, <b>also</b> referred to in Article 52(1) <b>of this Regulation and Article 121 of Regulation (EU) .../...[CAP Strategic Plan Regulation]</b> showing that the expenditure was made in accordance with Article 35;	(b)

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		Performance		
Article 8(3), first subparagraph, point (c), introductory part				
174	(c) a management declaration as provided for in Article 63(6) of the Financial Regulation, as to:	(c) a management declaration as provided for in Article 63(6) of the Financial Regulation, as to:  Performance		
Article 8(3), first subparagraph, point (c)(i)				
175	(i) the fact that the information is properly presented, complete and accurate, as provided for in point (a) of Article 63(6) of the Financial Regulation,	(i) the fact that the information is properly presented, complete and accurate, as provided for in point (a) of Article 63(6) of the Financial Regulation,  Performance		
Article 8(3), first subparagraph, point (c)(ii)				
176	(ii) the proper functioning of the governance systems put in place, which give the necessary guarantees concerning the outputs reported in the annual performance report, as provided for in points (b) and (c) of Article 63(6) of the Financial Regulation,	(ii) the proper functioning of the <u>internal control</u> <del>governance</del> systems put in place, <del>which give the necessary guarantees concerning the outputs reported in the annual performance report</del> <u>in line with the basic Union requirements, which give</u> , as provided for in points (b) and (c) of Article 63(6) of the Financial Regulation, <u>the necessary guarantees that the expenditure was</u>		(ii)

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		<u>made in accordance with Article 35 of this Regulation.</u>  Performance		
Article 8(3), first subparagraph, point (c)(iii)				
y	177  (iii) an analysis of the nature and extent of errors and weaknesses identified in systems by audit and controls, as well as corrective action taken or planned, as provided for in point (b) of Article 63(5) of the Financial Regulation.	(iii) <del>an analysis of the nature and extent of errors and weaknesses identified in systems by audit and controls, as well as corrective action taken or planned, as provided for in point (b) of Article 63(5) of the Financial Regulation.</del>  Performance		(iii)
Article 8(3), second subparagraph				
g	178  The deadline of 15 February referred to in the first subparagraph may be exceptionally extended by the Commission to 1 March, upon request by the Member State concerned, as provided for in the second subparagraph Article 63(7) of the Financial Regulation.	The deadline of 15 February referred to in the first subparagraph may be exceptionally extended by the Commission to 1 March, upon request by the Member State concerned, as provided for in the second subparagraph Article 63(7) of the Financial Regulation.  Performance		The deadline of 15 February referred to in the first subparagraph may be exceptionally extended by the Commission to 1 March, upon request by the Member State concerned, as provided for in the second subparagraph Article 63(7) of the Financial Regulation.  <u>Text Origin: Commission Proposal</u>
Article 8(3a), introductory part				
y	178a	<u>3a. For the purpose of the annual</u>		3a.

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		<p><u>performance monitoring referred to in Article 38a and the multiannual performance review referred to in Article 121 of Regulation (EU) .../... [CAP Strategic Plan Regulation], the person in charge of the accredited paying agency shall, by 15 February of the year following the financial year concerned, draw up and provide the Commission with the performance report.</u></p> <p>Performance</p>		
Article 8(3a), a				
178b		<p><u>The report shall reflect the operations carried out and the progress made towards the achievement of the objectives as set out in the CAP National Strategic Plan and contain information about realised outputs and realised expenditure every year, information on realised results and distance to respective targets every two years, and, where feasible, reporting on impacts using the data referred to in Article 129 of Regulation (EU) .../... [CAP Strategic Plan Regulation].</u></p> <p>Performance</p>		1
Article 8(3a), b				

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y	178c	<p><u><i>The performance report shall be submitted to the Commission for the first time by ... [two years after the date of application of this Regulation] and then each subsequent year until and including 2030. The first performance report shall cover the first two financial years after ... [year of the date of application of this Regulation]. Of those direct payments referred to in Chapter II of Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation], the performance report shall cover only the financial year ... [year following that of the date of application of this Regulation].</i></u></p> <p>Performance</p>		
Article 8(4), first subparagraph, introductory part				
g	179	<p>4. Where more than one paying agency is accredited, Member States shall appoint a public coordinating body, to which it shall assign the following tasks:</p> <p><del>4. <i>Where more than one paying agency is accredited, Member States shall appoint a public coordinating body, to which it shall assign the following tasks:</i></del></p> <p>Governance Performance</p>		4.
Article 8(4), first subparagraph, point (a)				
y	180	<p>(a) to collect the information to be</p> <p>(a) <del><i>to collect the information to be</i></del></p>		(a)

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	provided to the Commission and to send that information to the Commission;	<i>provided to the Commission and to send that information to the Commission;</i>  Governance Performance		
Article 8(4), first subparagraph, point(b)				
y	181  (b) to furnish the annual performance report referred to in Article 52(1);	<i>(b) to furnish the annual performance report referred to in Article 52(1);</i>  Governance Performance	(b) to <del>furnish</del> <b>supply</b> the annual performance report referred to in Article 52(1) <b>of this Regulation and Article 121 of Regulation (EU) .../... [CAP Strategic Plan Regulation]</b> ;	(b)
Article 8(4), third subparagraph				
y	185  The annual performance report provided by the coordinating body shall be covered by the scope of the opinion referred to in Article 11(1) and its transmission shall be accompanied by a management declaration covering the entirety of that report.	<i>The annual performance report provided by the coordinating body shall be covered by the scope of the opinion referred to in Article 11(1) and its transmission shall be accompanied by a management declaration covering the entirety of that report.</i>  Performance Governance	The annual performance report provided by the coordinating body shall be covered by the scope of the opinion referred to in Article 11(1) and its transmission shall be accompanied by a management declaration covering the <del>entirety of that</del> <b>entirety of the compilation of the entire</b> report.	
Article 8(7)				
y	188a	Performance	<b>7. For the purpose of Article 31, for EAFRD expenditure, an additional performance report shall be provided, by 30 of June</b>	-a

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			<p>2030, in accordance with paragraphs 3 and 4, covering the period until 31 December 2029.<sup>1</sup></p> <p>1. The text of this newly introduced paragraph 7 has been taken, for legal reasons, from Article 121 CAP SPR.</p>	
Article 10a(1), first subparagraph, point (a)				
y	204c	<p><u>(a) to collate the documents, data and information to be provided to the Commission and to send that information to the Commission;</u></p> <p>Performance</p>		(a)
Article 10a(1), first subparagraph, point (b)				
y	204d	<p><u>to take or coordinate actions with a view to resolving any deficiencies of a common nature and to keep the Commission informed thereof as well as of any follow-up;</u></p> <p>Governance Performance</p>		(b)
Article 10a(2), third subparagraph				
y	204g	<p><u>The documents, data and information referred to in Article 8(3) and (3a) submitted by the paying agencies and to be provided by the coordinating body shall be</u></p>		2.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>covered by the scope of the certification body's opinion referred to in Article 11(1) and transmitted together with a management declaration covering the entirety of those documents.</u></p> <p>Performance</p>		
Article 11(1), second subparagraph, point (c)				
210	<p>(c) the performance reporting on output indicators for the purposes of the annual performance clearance referred to in Article 52 and the performance reporting on result indicators for the multiannual performance monitoring referred to in Article 115 of Regulation (EU) .../... [CAP Strategic Plan Regulation], demonstrating that Article 35 of this Regulation is complied with, is correct</p>	<p>(c) the performance reporting <del>on output indicators</del> for the <del>purposes</del> <u>purpose</u> of the annual <del>performance clearance</del> <u>monitoring</u> referred to in Article <del>52</del> <u>38a</u> and the <del>performance reporting on result indicators for the</del> multiannual performance <del>monitoring</del> <u>review</u> referred to in Article <del>115</del> <u>121</u> of Regulation (EU) .../... [CAP Strategic Plan Regulation], <u>reflecting the operations carried out and the progress made towards the achievement of the objectives, as set out in the CAP National Strategic Plan</u> <del>demonstrating that Article 35 of this Regulation is complied with,</del> is correct.</p> <p>Performance</p>		(c)
Article 11(1), second subparagraph, point(d)				
211	(d) the expenditure for the measures	(d) the expenditure for the measures	(d) the expenditure for the measures	(d)

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	laid down in Regulation (EU) No 1308/2013 for which reimbursement has been requested from the Commission is legal and regular. ;	laid down in <u>Regulations (EU) .../... /CAP Strategic Plan Regulation</u> , (EU) No 1308/2013, <u>(EU) No 228/2013, (EU) No 229/2013 and (EU) No 1144/2014</u> for which reimbursement has been requested from the Commission is legal and regular. <del>;</del> <u>and demonstrates that Article 35 of this Regulation is complied with.</u>  Performance	laid down in Regulation (EU) No 1308/2013, <b>Regulation (EU) No 228/2013, Regulation (EU) No 229/2013 and Regulation (EU) 1144/2014</b> for which reimbursement has been requested from the Commission is legal and regular.;	
Article 11(2)				
214	2. The certification body shall have the necessary technical expertise. It shall be operationally independent from the paying agency and the coordinating body concerned as well as from the authority which has accredited that agency and the bodies responsible for the implementation and the monitoring of the CAP.	2. The certification body shall have the necessary technical expertise, <u>in terms of both financial management and also related to assessing the achievement of the intended aims of the interventions. All data and information used to enable certifying bodies to provide assurance that targets are being met, as well as those underlying the assumptions made, shall be made available transparently.</u> It shall be operationally independent from the paying agency and the coordinating body concerned as well as from the authority which has accredited that agency and the bodies responsible for the implementation and the monitoring of the CAP.  Governance Performance		2.  Performance

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	Article 12a(3), point (b)			
y	225k	<p><u>(b) the audit methods to be used, by the certification bodies, having regard to international standards on auditing, to deliver their opinions, which may include the possibility of monitoring paying agencies' on-the-spot checks.</u></p> <p>Performance</p>		(b)
	Article 30(5)			
y	335	<p>5. The amount included in the first declaration of expenditure, referred to in point (a) of paragraph 4, shall be cleared from Commission accounts no later than in the annual accounts for the last execution year for the relevant CAP Strategic Plan.</p> <p>Performance Financial management</p>	<p>5. <b>Amounts paid in accordance with point (a) of paragraph 4 shall be considered advances for the purpose of the last paragraph of Article 35.</b> The amount included in the first declaration of expenditure, referred to in point (a) of paragraph 4, shall be cleared from Commission accounts no later than in the annual accounts for the last execution year for the relevant CAP Strategic Plan.</p>	5.
	Article 31			
g	350	<p>Article 31</p> <p>Payment of the balance and closure of the rural development interventions in the CAP Strategic Plan</p>	<p>Article 31</p> <p>Payment of the balance and closure of the rural development interventions in the CAP Strategic Plan</p>	<p>Article 31</p> <p>Payment of the balance and closure of the rural development interventions in the CAP Strategic Plan</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Financial management Performance		Text Origin: Commission Proposal
Article 31(1)				
351	<p>1. After receiving the last annual performance report on the implementation of a CAP Strategic Plan, the Commission shall pay the balance, subject to the availability of resources, on the basis of the financial plan in force at the level of the types of EAFRD interventions, the annual accounts for the last execution year for the relevant CAP Strategic Plan and of the corresponding clearance decisions. Those accounts shall be presented to the Commission no later than six months after the final eligibility date of expenditure provided for in Article 80(3) of Regulation (EU) No.../...[CAP Strategic Plan Regulation] and shall cover the expenditure effected by the paying agency up to the last eligibility date of expenditure.</p>	<p>1. After receiving the last annual <del>performance</del> <u>clearance</u> report on the implementation of a CAP Strategic Plan, the Commission shall pay the balance, <del>subject to the availability of resources</del>, on the basis of the financial plan in force at the level of the types of EAFRD interventions, the annual accounts for the last execution year for the relevant CAP Strategic Plan and of the corresponding clearance decisions. Those accounts shall be presented to the Commission no later than six months after the final eligibility date of expenditure provided for in Article 80(3) of Regulation (EU) No.../...[CAP Strategic Plan Regulation] and shall cover the expenditure effected by the paying agency up to the last eligibility date of expenditure.</p> <p>Performance</p>		<p>1.</p> <p>Performance</p>
Article 31(2)				
352	<p>2. The balance shall be paid no later than six months from the date on</p>	<p>2. The balance shall be paid no later than six months from the date on</p>		<p>2. The balance shall be paid no later than six months from the date on</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	which the information and documents referred to in paragraph 1 are considered to be admissible by the Commission and the last annual account has been cleared. Without prejudice to Article 32(5), the amounts still committed after the balance is paid shall be decommitted by the Commission within a period of six months.	which the information and documents referred to in paragraph 1 are considered to be admissible by the Commission and the last annual account has been cleared. Without prejudice to Article 32(5), the amounts still committed after the balance is paid shall be decommitted by the Commission within a period of six months.  <b>Performance</b>		which the information and documents referred to in paragraph 1 are considered to be admissible by the Commission and the last annual account has been cleared. Without prejudice to Article 32(5), the amounts still committed after the balance is paid shall be decommitted by the Commission within a period of six months.  Text Origin: Commission Proposal
Article 31(3)				
353	3. If, by the time limit set out in paragraph 1, the Commission has not received the last annual performance report and the documents needed for clearance of the accounts of the last execution year of the Plan, the balance shall be automatically decommitted in accordance with Article 32.	3. If, by the time limit set out in paragraph 1, the Commission has not received the last annual <del>performance</del> clearance report and the documents needed for clearance of the accounts of the last execution year of the Plan, the balance shall be automatically decommitted in accordance with Article 32.  <b>Performance</b>		3.  <b>Performance</b>
Article 35				
373	Article 35 Eligibility of expenditure incurred by the paying agencies	Article 35 Eligibility of expenditure incurred by the paying agencies  <b>Performance</b>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 35, first paragraph, introductory part			
y	374 The expenditure referred to in Article 5(2) and Article 6 may be financed by the Union only if:	The expenditure <u>for the measures laid down in Regulations (EU) No 1308/2013, (EU) No 228/2013, (EU) No 229/2013 and (EU) No 1144/2014</u> <del>referred to in Article 5(2) and Article 6</del> may be financed by the Union only if:  Performance	The expenditure referred to in Article 5(2) and Article 6 may be financed by the Union only if <b>it has been effected by accredited paying agencies and:</b>	
	Article 35, first paragraph, point(a)			
y	375 (a) it has been effected by accredited paying agencies,	(a) it has been effected by accredited paying agencies; <u>and</u>  Performance	<i>deleted</i>	(a)
	Article 35, first paragraph, point(b)			
y	376 (b) it has been effected in accordance with the applicable Union rules, or	(b) it has been effected in accordance with the applicable Union rules; <del>or</del> <u>.</u>  Performance	<del>(b)</del> (a) it has been effected in accordance with the applicable Union rules, or	(b)
	Article 35, first paragraph, point(c), introductory part			
y	377 (c) as regards types of interventions referred to in Regulation (EU) .../... [CAP Strategic Plan Regulation],	(c) <del>as regards types of interventions referred to in Regulation (EU) .../... [CAP Strategic Plan Regulation];</del>	<del>(c)</del> (b) as regards types of interventions referred to in Regulation (EU) .../... [CAP	(c)

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		Performance	Strategic Plan Regulation],	
Article 35, first paragraph, point(c)(i)				
378	(i) it is matched by a corresponding reported output, and	(i) <del>it is matched by a corresponding reported output, and</del> Performance		(i)
Article 35, first paragraph, point(c)(ii)				
379	(ii) it has been effected in accordance with the applicable governance systems, not extending to the eligibility conditions for individual beneficiaries laid down in the national CAP Strategic Plans.	(ii) <del>it has been effected in accordance with the applicable governance systems, not extending to the eligibility conditions for individual beneficiaries laid down in the national CAP Strategic Plans.</del> Performance		(ii)
Article 35, second paragraph				
380	Point (c)(i) of the first paragraph shall not apply to advances paid to beneficiaries under types of interventions referred to in Regulation (EU) No.../...[CAP Strategic Plan Regulation].	<del>Point (c)(i) of the first paragraph shall not apply to advances paid to beneficiaries under types of interventions referred to</del> <u>The expenditure for the measures laid down</u> in Regulation (EU) No.../... [CAP Strategic Plan Regulation]- <u>may be financed by the Union only if:</u> Performance	Point <del>(c)(i)</del> <b>(b)(i)</b> of the first paragraph shall not apply to advances paid to beneficiaries under types of interventions referred to in Regulation (EU) No.../...[CAP Strategic Plan Regulation].	

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	Article 35, second paragraph, point (a)			
y	380a	<p><u>(a) it has been effected by accredited paying agencies;</u></p> <p>Performance</p>		(a)
	Article 35, second paragraph, point (b)			
y	380b	<p><u>(b) it has been effected in accordance with the applicable Union requirements; and</u></p> <p>Performance</p>		(b)
	Article 35, second paragraph, point (c)			
y	380c	<p><u>(c) it has been effected in accordance with the applicable governance systems, including Member States' obligations with regard to the effective protection of the financial interests of the Union referred to in Article 57 of this Regulation and the reporting system put in place for the purposes of the performance report referred to in Article 121 of Regulation (EU) .../... [CAP Strategic Plan Regulation].</u></p> <p>Performance</p>		(c)

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Article 38(1), first subparagraph				
390	<p>1. Where Member States do not submit the documents referred to in Articles 8(3) and 11(1) by the deadlines, as provided for in Article 8(3), the Commission may adopt implementing acts suspending the total amount of the monthly payments referred to in Article 19(3). The Commission shall reimburse the suspended amounts when it receives the missing documents from the Member State concerned, provided that the date of receipt is not later than six months after the deadline.</p>	<p>1. Where Member States do not submit the documents <u>and data</u> referred to in Articles <del>8(3)</del> <u>8</u> and 11(1) <del>by</del> <u>within</u> the deadlines, as provided for in Article <u>8, and, where applicable, in Article 129(1) of Regulation (EU) .../... [CAP Strategic Plan Regulation]</u> <del>8(3)</del>, the Commission <del>may</del> <u>shall</u> adopt implementing acts suspending the total amount of the monthly payments referred to in Article 19(3). The Commission shall reimburse the suspended amounts when it receives the missing documents from the Member State concerned, provided that the date of receipt is not later than six months after the deadline.</p> <p>Performance NDM</p>	<p>1. Where Member States do not submit the documents referred to in Articles 8(3) and 11(1) by the deadlines, as provided for in Article 8(3), the Commission may adopt implementing acts suspending the total amount of the monthly payments referred to in Article 19(3). The Commission shall reimburse the suspended amounts when it receives the missing documents from the Member State concerned, provided that the date of receipt is not later than six months after the deadline. <b>Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 101(2).</b></p>	1.
Article 38(1), second subparagraph				
391	<p>As regards the interim payments referred to in Article 30, declarations of expenditure shall be deemed inadmissible in accordance with paragraph 6 of that Article.</p>	<p>As regards the interim payments referred to in Article 30, declarations of expenditure shall be deemed inadmissible in accordance with paragraph 6 of that Article.</p> <p>NDM Performance</p>		
Article 38(2), first subparagraph				

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392	<p>2. Where, in the framework of the annual performance clearance referred to in Article 52, the Commission establishes that the difference between the expenditure declared and the amount corresponding to the relevant reported output is more than 50% and the Member State cannot provide duly justified reasons, the Commission may adopt implementing acts suspending the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30.</p>	<p><del>2. Where, in the framework of the annual performance clearance referred to in Article 52, the Commission establishes that the difference between the expenditure declared and the amount corresponding to the relevant reported output is more than 50% and the Member State cannot provide duly justified reasons, the Commission may adopt implementing acts suspending the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30.</del></p> <p>Performance NDM</p>	<p>2. Where, in the framework of the annual performance clearance referred to in Article 52, the Commission establishes that the difference between the expenditure declared and the amount corresponding to the relevant reported output is more than 50% and the Member State cannot provide duly justified reasons, the Commission may adopt implementing acts suspending the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30. <b>Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 101(2).</b></p>	
Article 38(2), second subparagraph				
393	<p>The suspension shall be applied to the relevant expenditure in respect of the interventions which have been subject to the reduction referred to in Article 52(2) and the amount to be suspended shall not exceed the percentage corresponding to the reduction applied in accordance with Article 52(2). The amounts suspended shall be reimbursed by the Commission to the Member States or permanently reduced by means of the implementing act</p>	<p><del>The suspension shall be applied to the relevant expenditure in respect of the interventions which have been subject to the reduction referred to in Article 52(2) and the amount to be suspended shall not exceed the percentage corresponding to the reduction applied in accordance with Article 52(2). The amounts suspended shall be reimbursed by the Commission to the Member States or permanently reduced by means of the implementing act</del></p>	<p>The suspension shall be applied to the relevant expenditure in respect of the interventions which have been subject to the reduction referred to in Article 52(2) and the amount to be suspended shall not exceed the percentage corresponding to the reduction applied in accordance with Article 52(2). The amounts suspended shall be reimbursed by the Commission to the Member States or permanently reduced <b>at the latest</b> by means of the implementing</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	referred to in Article 52.	<del>referred to in Article 52.</del> Performance NDM	act referred to in Article 52 relating to the year for which the payments were suspended. However, if Member States demonstrate that the necessary corrective actions have been taken, the Commission may lift the suspension earlier in a separate implementing act.	
Article 38(2), third subparagraph				
394	The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules on the rate of suspension of payments.	<del>The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules on the rate of suspension of payments.</del> Performance NDM	The Commission is <del>empowered</del> <b>shall</b> adopt <del>delegated</del> <b>implementing</b> acts in accordance with Article 100 supplementing this Regulation with <b>101 laying down detailed</b> rules on the rate of suspension of payments. <b>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).</b>	
Article 38(3), first subparagraph				
395	3. The implementing acts provided for in this Article shall be adopted in accordance with the advisory procedure referred to in Article 101(2).	3. The implementing acts provided for in this Article shall be adopted in accordance with the advisory procedure referred to in Article 101(2). NDM Performance	<i>deleted</i>	
Article 38(3), second subparagraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
y	396	<p>Before adopting those implementing acts, the Commission shall inform the Member State concerned of its intention and shall give the Member State the opportunity to submit its comments within a period which shall not be less than 30 days.</p> <p>NDM Performance</p>	<p>Before adopting <del>those</del>the implementing acts <b>referred to in paragraph (1) and the first subparagraph of paragraph (2)</b>, the Commission shall inform the Member State concerned of its intention and shall give the Member State the opportunity to submit its comments within a period which shall not be less than 30 days.</p>	
Article 38(3), third subparagraph				
y	397	<p>The implementing acts determining the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30 shall take account of the implementing acts adopted under this paragraph.</p> <p>NDM Performance</p>		
Article 38a				
y	397a	<p><u><a href="#">Article 38a</a></u> <u><a href="#">Annual performance monitoring</a></u></p> <p>Performance NDM</p>		
Article 38a(1)				
y	397b	<p><u><a href="#">1. The Commission shall monitor</a></u></p>		1.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>the operations carried out under the interventions referred to in Regulation (EU) .../... [CAP Strategic Plan Regulation] and assess the correspondence between the realised output and the realised expenditure reported in the performance report from ... [two years after the date of application of this Regulation] and then every year thereafter.</u></p> <p>Performance NDM</p>		
Article 38a(2)				
y 397c		<p><u>2. Where, in the framework of the annual performance monitoring referred to in paragraph 1, the Commission establishes that the difference between the expenditure declared and the amount corresponding to the relevant reported output is more than 35 %, the Member State shall submit justifications before the review meeting referred to in Article 122 of that Regulation to the Commission.</u></p> <p>Performance NDM</p>		2.
Article 38a(3)				
y 397d		<p><u>Where the Member State concerned cannot provide duly</u></p>		3.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>justified reasons for the difference, the Commission shall request from the Member State concerned an assessment of the issues affecting the implementation of the CAP Strategic Plan, in particular as regards potential future deviations from the relevant milestones in the future and foreseeable difficulties in meeting the relevant targets for result indicators in the framework of the multiannual performance review referred to in Article 121 of Regulation (EU) .../...[CAP Strategic Plan Regulation], and, where relevant, to describe the measures already taken and to be taken.</u></p> <p>Performance NDM</p>		
Article 38a(4)				
y	397e	<p><u>The Commission may, where necessary, issue an early warning during the review meeting and ask the Member State to devise and implement the additional remedial actions for the following financial year.</u></p> <p>Performance NDM</p>		4.
Article 38a(5)				
y	397f			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>3. No later than 15 March ... [two years after the date of application of this Regulation] and each subsequent year, the Commission shall transmit to the European Parliament a summary report on the annual performance monitoring carried out the previous calendar year, including early warnings issued.</u></p> <p>Performance NDM</p>		5.
Article 39				
y	398	<p>Article 39 Suspension of payments in relation to the multi-annual performance monitoring</p> <p>Article 39 Suspension <u>and reductions</u> of payments in relation to the multi-annual performance <del>monitoring</del><u>review</u></p> <p>Performance NDM</p>		Article 39
Article 39(-1)				
y	398a	<p><u>1. The Commission shall carry out a multiannual performance review as referred in Article 121 of Regulation (EU) .../... [CAP Strategic Plan Regulation] based on the information provided in the performance reports from ... [two years after the date of application of this Regulation] and every two years thereafter.</u></p>		-1.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Performance NDM		
Article 39(1), first subparagraph				
399	<p>1. In case of delayed or insufficient progress towards targets, as set out in the national CAP Strategic Plan and monitored in accordance with Articles 115 and 116 of Regulation (EU) .../[CAP Strategic Plan Regulation], the Commission may ask the Member State concerned to implement the necessary remedial actions in accordance with an action plan with clear progress indicators, to be established in consultation with the Commission.</p>	<p><del>1.</del> In <u>the</u> case of delayed or insufficient progress towards <u>milestones for result indicators, and where the reported value of one or more result indicators</u> <del>targets</del>, as set out in the national CAP Strategic Plan and monitored in accordance with Articles 115 and 116 of Regulation (EU) .../[CAP Strategic Plan Regulation], <u>reveals a shortfall of more than 25 % for the reporting year concerned, the</u> <del>Commission may ask</del> the Member State concerned <del>to implement the necessary remedial actions in accordance with an action plan with clear progress indicators, to be established</del> <u>shall submit justification for that shortfall before the review meeting referred to in Article 122 of that Regulation.</u></p> <p><u>Where the Member State concerned cannot provide justification for the shortfall, the Commission may request during the review meeting the Member State concerned to devise and establish</u> in consultation with the Commission <u>an action plan and to implement such action plan.</u></p>	<p>1. <del>In case of delayed or insufficient progress towards targets, as set out in the national CAP Strategic Plan and monitored</del> <b>Where</b> in accordance with <del>Articles 115 and 116</del> <b>Article 121a(2)</b> of Regulation (EU) .../[CAP Strategic Plan Regulation], the Commission <del>may ask</del> <b>asks</b> the Member State concerned to <del>implement the necessary remedial actions in accordance with an action plan with</del> <b>submit an action plan, the Member State shall establish, in consultation with the Commission, the intended remedial actions, including</b> clear progress indicators, <b>and the timeframe during which the progress has to be established</b> in consultation with the Commission <del>achieved. That timeframe may extend beyond one financial year.</del></p>	<p>1.</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Performance NDM		
Article 39(1), first subparagraph a				
y 399a		<p><u><i>The Member State concerned shall submit to the Commission, within three months following the Commission's request, the action plan referred to in the second subparagraph, including the necessary remedial actions and the expected timeframe for its execution. That action plan shall clearly identify the interventions related to the result indicators for which the shortfall has been identified.</i></u></p> <p>Performance NDM</p>		1.
Article 39(1), first subparagraph b				
y 399b		<p><u><i>Within a period of 30 days, the Commission shall either notify the Member State concerned in writing that it accepts the action plan or it shall send a request to the Member State concerned for its modifications. The Member State concerned shall comply with the action plan and respect the expected timeframe for its execution as accepted by the Commission.</i></u></p>		1.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Performance NDM		
Article 39(1), second subparagraph				
400	<p>The Commission may adopt implementing acts laying down further rules on the elements of action plans and the procedure for setting up the action plans. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).</p>	<p><u>For the purpose of establishing the action plans referred to in this paragraph, the Commission shall</u><del>The Commission may</del> adopt <del>implementing acts</del> <u>delegated acts in accordance with Article 100, supplementing this Regulation by</u> laying down further rules on the elements of <del>action plans and the procedure for setting up the</del> <u>those</u> action plans. <del>Those implementing acts shall be adopted in accordance with the examination, including, in particular, a definition of progress indicators and the</del> procedure referred to in Article 101(3) <u>for establishing those action plans.</u></p> <p>Performance NDM</p>	<p>The Commission <del>may</del> <b>shall</b> adopt implementing acts laying down further rules on the elements of action plans and the procedure for setting up the action plans. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).</p>	
Article 39(2), first subparagraph				
401	<p>2. Where the Member States fails to submit or to implement the action plan referred to in paragraph 1 or if that action plan is manifestly insufficient to remedy the situation, the Commission may adopt implementing acts suspending the monthly payments referred to in Article 19(3) or the interim</p>	<p>2. Where the Member <u>State concerned</u> <del>States</del> fails to submit or <del>to</del> implement the action plan referred to in paragraph 1 or if <u>the action plan submitted by that Member State</u> <del>that action plan</del> is manifestly insufficient to remedy the situation, the Commission may, <u>after consulting the Member State</u></p>		2.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	payments referred to in Article 30.	<u>concerned and granting it an opportunity to respond within a period of 30 days</u> , adopt implementing acts suspending the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30.  Performance NDM		
Article 39(2), first subparagraph a				
y	401a	<u>Where the Member State concerned responded and presented its observations and the Commission considered those observations insufficient, the Commission shall, where necessary and at the latest when the implementing act is adopted, provide justification as to why the observations presented were not sufficient. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 101(2).</u>  Performance NDM		2.
Article 39(2), first subparagraph b				
y	401b	<u>The Commission shall take into account the timeframe indicated for the execution of the action plan before any suspension procedure is</u>		2.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u><i>initiated under this Article. The Commission shall also take into account cases of force majeure and serious crisis, which could have prevented the Member State from proper implementation of its action plan including the achievement of milestones concerned.</i></u></p> <p>Performance NDM</p>		
Article 39(2), second subparagraph				
402	<p>The suspension shall be applied in accordance with the principle of proportionality to the relevant expenditure related to the interventions which were to be covered by that action plan. The Commission shall reimburse the suspended amounts when, on the basis of the performance review referred to in Article 121 of Regulation (EU) .../... [CAP Strategic Plan Regulation] satisfactory progress towards targets is achieved. If the situation is not remedied by the closure of the national CAP Strategic Plan, the Commission may adopt an implementing act definitively reducing the amount suspended for the Member State concerned.</p>	<p>The suspension shall be applied in accordance with the principle of proportionality to the relevant expenditure related to the interventions which were to be covered by that action plan. The Commission shall reimburse the suspended amounts when, on the basis of the performance review referred to in Article 121 of Regulation (EU) .../... [CAP Strategic Plan Regulation] satisfactory progress towards <del>targets</del> <u><i>milestones for result indicators and the reported value of result indicators</i></u> is achieved. If the situation is not remedied by the closure of the national CAP Strategic Plan, the Commission may adopt an implementing act definitively reducing the amount suspended for the Member State concerned.</p>	<p>The suspension shall be applied in accordance with the principle of proportionality to the relevant expenditure related to the interventions which were to be covered by that action plan. The Commission shall reimburse the suspended amounts when, on the basis of the performance review referred to in Article <del>121</del> <b>121a</b> of Regulation (EU) .../... [CAP Strategic Plan Regulation] satisfactory progress towards targets is achieved. If the situation is not remedied by the closure of the national CAP Strategic Plan, the Commission may adopt an implementing act definitively reducing the amount suspended for the Member State concerned. <b>Those implementing acts shall be adopted in accordance with the advisory procedure referred to in</b></p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Performance NDM	Article 101(2).	
Article 39(2), second subparagraph a				
y	402a	<p><u>For the purposes of this Article, "satisfactory progress" means that the Member State concerned has implemented the action plan, and the reached milestones and the reported value of result indicators concerned constitutes a shortfall of less than 25 % for the reporting years concerned.</u></p> <p>Performance NDM</p>		
Article 39(2), second subparagraph b				
y	402b	<p><u>The Member State concerned may voluntarily notify the Commission of the advancement of the action plan during the budget year in order to allow the Commission to assess the progress made in reaching the milestones. If a Member State can demonstrate that the shortfall, which led to the suspension, is reduced to less than 25 % during the budget year, the amounts suspended shall be reimbursed.</u></p> <p>Performance NDM</p>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 39(2), second subparagraph c				
402c		<p><u><i>If the situation is not remedied by the end of the sixth month following the suspension, the Commission may adopt an implementing act definitively reducing the amount suspended for the Member State concerned. The amounts definitively reduced shall be reallocated to Member States to reward satisfactory performance as referred to in Article 39a.</i></u></p> <p>Performance NDM</p>		
Article 39(2), third subparagraph				
403	<p>The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules on the rate and duration of suspension of payments and the condition for reimbursing or reducing those amounts with regard to the multi-annual performance monitoring.</p>	<p>The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules on the rate and duration of suspension of payments and the condition for reimbursing or reducing those amounts with regard to the multi-annual performance <del>monitoring</del> <u>review</u>.</p> <p>Performance NDM</p>	<p>The Commission is <del>empowered to</del> <b>shall adopt</b> <del>delegated</del> <b>implementing</b> acts in accordance with Article 100 <del>supplementing this Regulation with</del> <b>101 laying down detailed</b> rules on the rate and duration of suspension of payments and the <del>condition</del> <b>conditions</b> for reimbursing or reducing those amounts with regard to the multi-annual performance monitoring. <b>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).</b></p>	
Article 39(3), first subparagraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
y	404	<p>3. The implementing acts provided for in paragraphs 1 and 2 shall be adopted in accordance with the advisory procedure referred to in Article 101(2).</p> <p>NDM Performance</p>	<p><i>deleted</i></p>	3.
<i>Article 39(3), second subparagraph</i>				
y	405	<p>Before adopting those implementing acts, the Commission shall inform the Member State concerned of its intention and shall ask it to respond within a period which shall not be less than 30 days.</p> <p>NDM Performance</p>	<p>Before adopting <del>those</del>the implementing acts <b>referred to in the first and second subparagraph of paragraph 2</b>, the Commission shall inform the Member State concerned of its intention and shall ask it to respond within a period which shall not be less than 30 days.</p>	
Article 39a				
y	405a	<p><u><a href="#">Article 39a</a></u> <u><a href="#">Redistribution of funds resulting from payment reductions in relation to the multi-annual performance review</a></u></p> <p>Performance</p>		Article 39a
Article 39a(1)				
y	405b		<u><a href="#">1. Funds resulting from reductions according to Article 39(3) of this</a></u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>Regulation shall be placed in a performance reserve and used to reward Member States where performance has been satisfactory in relation to the specific objectives referred to in Article 6(1) of Regulation (EU) .../... [CAP Strategic Plan Regulation] and further specified in their CAP Strategic Plan.</u></p> <p>Performance</p>		
Article 39a(2)				
y	405c	<p><u>2. Such funds may be attributed to Member States at the end of the CAP Strategic Plans to reward satisfactory performance provided that the Member State concerned has met the condition set out in paragraph 3 of this Article.</u></p> <p>Performance</p>		y
Article 39a(3), introductory part				
y	405d	<p><u>3. Based on the last multi-annual performance review, funds shall be attributed only to the Member States, which have achieved at least 90 % of their target value in relation to the result indicators applied to the specific objectives set out in Article 6(1) of Regulation</u></p>		y

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>(EU) .../... [CAP Strategic Plan Regulation] and set out in their CAP Strategic Plan.</u></p> <p>Performance</p>		
Article 39a(3), a				
405e		<p><u>The Commission shall within two months after the receipt of the last performance report of all Member State referred to in Article 121(2) of Regulation (EU) .../... [CAP Strategic Plan Regulation] adopt an implementing act without applying the committee procedure referred to in Article 101 to decide for each Member State whether the respective CAP Strategic Plans have achieved the target values referred to in paragraph 3 of this Article.</u></p> <p>Performance</p>		
Article 39a(4)				
405f		<p><u>4. Where the target values referred to in paragraph 3 are achieved, an amount shall be calculated and granted by the Commission to the Member State(s) concerned and considered to be definitely allocated to financial year after the closure of the CAP Strategic Plans on the</u></p>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>basis of the decision referred to in the same paragraph. When attributing the funds, the Commission may take into consideration the cases of force majeure and serious socio-economic crises impeding the achievement of the relevant milestones.</u></p> <p>Performance</p>		
Article 40				
406	<p>Article 40 Suspension of payments in relation to deficiencies in the governance systems</p>	<p>Article 40 Suspension of payments in relation to deficiencies in the governance systems</p> <p>Performance NDM</p>		Article 40
Article 40(1), first subparagraph				
407	<p>1. In case of serious deficiencies in the functioning of the governance systems, the Commission may ask the Member State concerned to implement the necessary remedial actions in accordance with an action plan with clear progress indicators, to be established in consultation with the Commission.</p>	<p>1. <del>In case of</del><u>Where</u> serious deficiencies in the functioning of the governance systems <u>are detected and indicated in the management declaration of a paying agency, in the opinion of the certification body or during <del>the</del> Commission's checks under Article 47, the Commission shall <del>may</del> ask the Member State concerned to <u>respond and provide comments on the findings within a period of two months after the</u></u></p>		1.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>request in order to assess the need for remedial actions and, where necessary, an action plan. After expiry of that period, the Commission shall, where necessary, request the Member State concerned to</u> implement the necessary remedial actions in accordance with an action plan with clear progress indicators, <u>which shall</u><del>to</del> be established in consultation with the Commission.</p> <p>Performance NDM</p>		
Article 40(1), first subparagraph a				
407a		<p><u>The Member State concerned shall, within three months following the Commission's request, submit to the Commission the action plan referred to in the first subparagraph, including the necessary remedial actions and the expected time frame for its execution. The Commission shall either notify the Member State concerned in writing that it accepts the action plan or it shall send to the Member State concerned a request for modifications. The Member State concerned shall comply with the action plan and respect the expected time frame for its execution as accepted by the Commission.</u></p>		1.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Performance NDM		
Article 40(1), second subparagraph				
408	The Commission may adopt implementing acts laying down further rules on the elements of the action plans and the procedure for setting up the action plans. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).	The Commission may adopt <del>implementing acts laying down further rules on the elements of the action plans and the procedure for setting up</del> <u>delegated acts in accordance with Article 100, supplementing this Regulation by laying down further rules on the elements of</u> the action plans. <del>Those implementing acts shall be adopted in accordance with the examination procedure referred to in this paragraph and the procedure referred to in Article 101(3) for establishing them.</del>  Performance NDM	The Commission <del>may</del> <b>shall</b> adopt implementing acts laying down further rules on the elements of the action plans and the procedure for setting up the action plans. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).	
Article 40(2), first subparagraph				
409	2. Where the Member State fails to submit or to implement the action plan referred to in paragraph 1 or if that action plan is manifestly insufficient to remedy the situation, the Commission may adopt implementing acts suspending the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30.	2. Where the Member State fails to submit or to implement the action plan referred to in paragraph 1 <u>of this Article</u> or if that action plan is manifestly insufficient to remedy the situation <u>or if it has not been applied in accordance with the written request of the Commission as referred to in that paragraph</u> , the Commission may adopt implementing acts suspending the		2.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p>monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30.</p> <p><u><i>Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 101(2).</i></u></p> <p>Performance NDM</p>		
Article 40(3), first subparagraph				
6	411	<p>3. The implementing acts provided for in this Article shall be adopted in accordance with the advisory procedure referred to in Article 101(2).</p> <p>3. <del><i>The implementing acts provided for in this Article shall be adopted in accordance with the advisory procedure referred to in Article 101(2).</i></del></p> <p>Performance NDM</p>	<p>3. The implementing acts provided for in <del>this Article</del> <b>paragraph (2)</b> shall be adopted in accordance with the advisory procedure referred to in Article 101(2).</p>	3.
Article 40(3), second subparagraph				
y	412	<p>Before adopting the implementing acts referred to in paragraph 2, the Commission shall inform the Member State concerned of its intention and shall ask it to respond within a period which shall not be less than 30 days.</p> <p>Before adopting the implementing acts referred to in paragraph 2, the Commission shall inform the Member State concerned of its intention and shall ask it to respond within a period which shall not be less than 30 days. <u><i>Where the Member State concerned responded and presented its observations, and the Commission considered those observations insufficient, the Commission shall, where necessary and at the latest when the</i></u></p>	<p>Before adopting <del>the</del> <b>those</b> implementing acts <del>referred to in paragraph 2</del>, the Commission shall inform the Member State concerned of its intention and shall ask it to respond within a period which shall not be less than 30 days.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>implementing act is adopted, provide justification as to why the observations presented were not sufficient.</u></p> <p>Performance NDM</p>		
Article 40(3), third subparagraph				
y	413	<p>The implementing acts determining the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30 shall take account of the implementing acts adopted under the first subparagraph of this paragraph.</p>	<p>The implementing acts determining the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30 shall take account of the <del>implementing</del> <u>delegated</u> acts adopted under the <del>first</del> <u>third</u> subparagraph of <u>paragraph 1.</u> <del>this paragraph.</del></p> <p>Performance NDM</p>	
Article 51				
g	486	<p>Article 51 Annual financial clearance</p>	<p>Article 51 Annual financial clearance</p> <p>Performance</p>	
Article 51(1), first subparagraph				
g	487	<p>1. Prior to 31 May of the year following the budget year in question and on the basis of the information referred to in points (a)</p>	<p>1. Prior to 31 May of the year following the budget year in question and on the basis of the information referred to in points (a).</p>	<p>1.</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	and (c) of Article 8(3), the Commission shall adopt implementing acts, containing its decision on the clearance of the accounts of the accredited paying agencies, for the expenditure referred to in Article 5(2) and Article 6.	<u>(b)</u> and (c) of Article 8(3), the Commission shall adopt implementing acts, containing its decision on the clearance of the accounts of the accredited paying agencies, for the expenditure referred to in Article 5(2) and Article 6.  Performance		
Article 51(1), second subparagraph				
488	Those implementing acts shall cover the completeness, accuracy and veracity of the annual accounts submitted and shall be without prejudice to the content of the implementing acts subsequently adopted pursuant to Articles 52 and 53.	Those implementing acts shall cover the completeness, accuracy and veracity of the annual accounts submitted and shall be without prejudice to the content of the implementing acts subsequently adopted pursuant to <del>Articles 52 and 53</del> <u>Article 53</u> .  Performance		
Article 51(1), third subparagraph				
489	Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 101(2).	Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 101(2).		Performance
Article 51(2), first subparagraph				
490	2. The Commission shall adopt	2. The Commission shall adopt		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	implementing acts laying down rules on the clearance of accounts provided for in paragraph 1 with regard to the measures to be taken in connection with the adoption of the implementing acts referred to in the second subparagraph of paragraph 1 and their implementation, including the information exchange between the Commission and the Member States and the deadlines to be respected.	implementing acts laying down rules on the clearance of accounts provided for in paragraph 1 with regard to the measures to be taken in connection with the adoption of the implementing acts referred to in the second subparagraph of paragraph 1 and their implementation, including the information exchange between the Commission and the Member States and the deadlines to be respected.		Performance
Article 51(2), second subparagraph				
G	491	Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).		Performance
Article 52				
Y	492	Article 52 Annual performance clearance	Article 52 <i>Annual performance clearance</i> Performance	Article 52
Article 52(1), first subparagraph				
Y	493	1. Where the expenditure referred to in Articles 5(2) and 6 and corresponding to the interventions referred to in Title III of Regulation (EU) .../... [CAP Strategic Plan	1. <i>Where the expenditure referred to in Articles 5(2) and 6 and corresponding to the interventions referred to in Title III of Regulation (EU) .../... [CAP Strategic Plan</i>	1. Where the expenditure referred to in Articles 5(2) and 6 and corresponding to the interventions referred to in Title III of Regulation (EU) .../... [CAP Strategic Plan

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Regulation] does not have a corresponding output as reported in the annual performance report, the Commission shall adopt implementing acts prior to 15 October of the year following the budget year in question determining the amounts to be reduced from Union financing. Those implementing acts shall be without prejudice to the content of the implementing acts subsequently adopted pursuant to Article 53 of this Regulation.	<del>Regulation] does not have a corresponding output as reported in the annual performance report, the Commission shall adopt implementing acts prior to 15 October of the year following the budget year in question determining the amounts to be reduced from Union financing. Those implementing acts shall be without prejudice to the content of the implementing acts subsequently adopted pursuant to Article 53 of this Regulation.</del>  Performance	Regulation] does not have a corresponding output as reported in the annual performance report referred to in Article 8(3) and (4) of this Regulation and also referred to in Article 121 of Regulation (EU) .../... [CAP Strategic Plan Regulation], the Commission shall adopt implementing acts prior to 15 October of the year following the budget year in question determining the amounts to be reduced from Union financing. Those implementing acts shall be without prejudice to the content of the implementing acts subsequently adopted pursuant to Article 53 of this Regulation.	
Article 52(1), second subparagraph				
494	Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 101(2).	<del>Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 101(2).</del>  Performance		
Article 52(2)				
495	2. The Commission shall assess the amounts to be reduced on the basis of the difference between the annual expenditure declared for an	2. <del>The Commission shall assess the amounts to be reduced on the basis of the difference between the annual expenditure declared for an</del>	2. The Commission shall assess the amounts to be reduced on the basis of the difference between the annual expenditure declared for an	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	intervention and the amount corresponding to the relevant reported output in accordance with the national CAP Strategic Plan and taking account of justifications provided by the Member State.	<del>intervention and the amount corresponding to the relevant reported output in accordance with the national CAP Strategic Plan and taking account of justifications provided by the Member State.</del>  Performance	intervention and the amount corresponding to the relevant reported output in accordance with the national CAP Strategic Plan and taking account of justifications provided by the Member State <b>in the annual performance reports in accordance with Article 121(5) of Regulation (EU) No.../... [CAP Strategic Plan Regulation].</b>	
Article 52(3)				
496	3. Before the adoption of the implementing act referred to in paragraph 1, the Commission shall give the Member State an opportunity to submit its comments and justify any differences.	<del>3. Before the adoption of the implementing act referred to in paragraph 1, the Commission shall give the Member State an opportunity to submit its comments and justify any differences.</del>  Performance	3. Before the adoption of the implementing act referred to in paragraph 1, the Commission shall give the Member State an opportunity to submit its comments and justify any differences <b>within a period which, where the documents in accordance with Articles 8(3), 8(4) and 11(1) have been submitted by the deadline, shall not be less than 30 days.</b>	
Article 52(4)				
497	4. The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules on the criteria for justifications from the concerned Member State and the methodology and criteria for applying reductions.	<del>4. The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules on the criteria for justifications from the concerned Member State and the methodology and criteria for applying reductions.</del>	<i>deleted</i>	4.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Performance		
Article 52(5), first subparagraph				
G	498 5. The Commission shall adopt implementing acts laying down rules on the measures to be taken in connection with the adoption of the implementing act referred to in paragraph 1 and its implementation, including the information exchange between the Commission and the Member States, the procedure and the deadlines to be respected.	5. <del>The Commission shall adopt implementing acts laying down rules on the measures to be taken in connection with the adoption of the implementing act referred to in paragraph 1 and its implementation, including the information exchange between the Commission and the Member States, the procedure and the deadlines to be respected.</del> Performance	54. The Commission shall adopt implementing acts laying down rules on the measures to be taken in connection with the adoption of the implementing act referred to in paragraph 1 and its implementation, including the information exchange between the Commission and the Member States, the procedure and the deadlines to be respected.:	5.
Article 52(5), second subparagraph				
G	499 Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).	<del>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).</del> Performance		
Article 53a				
Y	517a	<u>Article 53a</u> <u>Recoveries for non-compliance</u>		Article 53a  Financial management Performance
Article 53a(1)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
y	517b	<u>1. Member States shall request recovery from the beneficiary for any undue payment following the occurrence of irregularities and other cases of non-compliance by beneficiaries with the conditions of the interventions referred in the CAP Strategic Plan and bring legal proceedings to that effect where necessary.</u>		Financial management Performance
Article 53a(2)				
y	517c	<u>2. If the sum has not been recovered within four years of the date of the recovery request, or within eight years if the recovery is being dealt with by the national courts, 50 % of the financial cost of the non-recovery shall be borne by the Member State concerned and 50 % shall be borne by the Union, without prejudice to the requirement that the Member State concerned is to continue the recovery procedures in accordance with Article 57.</u>		Financial management Performance
Article 53a(3), introductory part				
y	517d	<u>3. On duly justified grounds, Member States may decide not to pursue recovery. A decision to that effect may be taken only in the</u>		Financial management Performance

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>following cases:</u>		
	Article 53a(3), point (a), introductory part			
y	517e	<u>(a) where the costs of recovery already incurred and the costs likely to be incurred total more than the amount to be recovered, which condition shall be considered to have been met if:</u>		Financial management Performance
	Article 53a(3), point (a)(1), introductory part			
y	517f			Financial management Performance
	Article 53a(3), point (a)(1)(i)			
y	517g	<u>i the amount to be recovered from the beneficiary in the context of an individual payment for an intervention, not including interest, does not exceed EUR 100; or</u>		Financial management Performance
	Article 53a(3), point (a)(1)(ii)			
y	517h	<u>ii the amount to be recovered from the beneficiary in the context of an individual payment for an intervention, not including interest, falls between EUR 100 and EUR 250 and the Member State concerned applies a threshold equal</u>		Financial management Performance

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>to or higher than the amount to be recovered under its national law for not pursuing national debts;</u>		
Article 53a(3), point (b)				
y	517i	<u>(b) where recovery proves impossible owing to the insolvency, recorded and recognised under national law, of the debtor or the persons legally responsible for the irregularity.</u>		Financial management Performance
Article 54, first paragraph a				
y	520a	<u>Member States may, without prejudice to the first paragraph, instruct the paying agency, as the body responsible for the recovery of debt, to deduct any outstanding debts owed by a beneficiary from future payments to that beneficiary.</u>		Financial management Performance
Article 55(1), second subparagraph				
y	524	Amounts of the Union financing under the EAFRD which are cancelled and amounts recovered, and the interest thereon, <u>which</u> shall be <del>reallocated to other rural development interventions in the CAP Strategic Plan. However, the cancelled or recovered Union Funds may be reused by Member States</del>	Amounts of the Union financing under the EAFRD which are cancelled and amounts recovered, and the interest thereon, shall be reallocated to other rural development <del>interventions</del> <b>operations</b> in the CAP Strategic Plan. However, the cancelled or recovered Union Funds may be	Financial management Performance

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	only for a rural development operation under the national CAP Strategic Plan and provided the funds are not reallocated to rural development operations which have been the subject of a financial adjustment.	<del>only for a</del> <u>calculated from the day following the date on which the payment was due, shall be reallocated to other</u> rural development <del>operation under the national</del> <u>interventions in the same</u> CAP Strategic Plan <del>and provided the funds are not reallocated to rural development operations which have been the subject of a financial adjustment.</del>	reused by Member States only for a rural development operation under the national CAP Strategic Plan and provided the funds are not reallocated to rural development operations which have been the subject of a financial adjustment.	
Article 55(1), second subparagraph a				
y	524a	<u>Member States shall deduct any sums unduly paid as a result of an outstanding irregularity by a beneficiary, under the terms set out in this Article, from any future payments to the beneficiary by the paying agency.</u>		Financial management Performance
Article 84				
g	738 Article 84 Control system for conditionality	Article 84 Control system for conditionality <b>Conditionality</b>		
Article 84(1), first subparagraph				
y	739 1. Member States shall set up a control system to ensure that beneficiaries of the aid referred to in	1. Member States shall <del>set up</del> <u>have</u> a control system <u>in order</u> to ensure that <del>beneficiaries of the aid referred</del>	1. Member States shall set up a control system to <del>ensure that</del> <b>beneficiaries of the aid control</b>	1.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 11 of Regulation (EU) .../... [CAP Strategic Plan Regulation] and in Chapter IV of Regulation (EU) No 228/2013 and in Chapter IV of Regulation (EU) No 229/2013 respectively, comply with the obligations referred to in Section 2 of Chapter 1 of Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation].	<p><del>to in Article 11 of Regulation (EU) .../... [CAP Strategic Plan Regulation] and in Chapter IV of Regulation (EU) No 228/2013 and in Chapter IV of Regulation (EU) No 229/2013 respectively, the following</del> <u>beneficiaries</u> comply with the obligations referred to in Section 2 of Chapter 1 of Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation].;</p> <p><b>Conditionality</b></p>	<p><del>compliance with the obligations referred to in Article 11</del><b>Section 2 of Chapter I of Title III</b> of Regulation (EU) .../...-[CAP Strategic Plan Regulation] <b>by the beneficiaries of the aid<sup>1</sup> referred to in Article 11(1) and in Chapter IV</b> of Regulation (EU) No 228/2013.../...[CAP Strategic Plan Regulation] and in Chapter IV of Regulation (EU) No 229/2013 respectively, comply with the obligations referred to in Section 2 of No 228/2013 and in Chapter 1 of Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation].No 229/2013</p> <p><b>1. The consistency of the use of the terms "aid", "support" and "payments" should be checked at an appropriate moment.</b></p>	
Article 84(1), first subparagraph, point (a)				
739a		<p><u>(a) beneficiaries receiving direct payments under Chapter II of Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation].;</u></p> <p><b>Conditionality</b></p>		(a)
Article 84(1), first subparagraph, point (b)				
739b		<p><u>(b) beneficiaries receiving annual payments in accordance with Articles 65, 66 and 67 of Regulation</u></p>		(b)

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>(EU).../... [CAP Strategic Plan Regulation];</u> <b>Conditionality</b>		
Article 84(1), first subparagraph, point (c)				
G	739c	<u>(c) beneficiaries receiving support in accordance with Chapter IV of Regulation (EU) No 228/2013 and Chapter IV of Regulation (EU) No 229/2013.</u> <b>Conditionality</b>		(c)
Article 84(1), first subparagraph a, introductory part				
Y	739d	<b>Conditionality</b>	<b>Member States applying Article 25 of Regulation (EU).../...[CAP Strategic Plan Regulation may set up a simplified control system:</b>	
Article 84(1), first subparagraph a, point (a)				
G	739e	<b>Conditionality</b>	<b>(a) for beneficiaries receiving payments under Article 25 of Regulation (EU).../...[CAP Strategic Plan Regulation] or</b>	(a)
Article 84(1), first subparagraph a, point (b)				
Y	739f	<b>Conditionality</b>	<b>(b) for small farmers as defined by Member States pursuant to</b>	(b)

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			Article 25 of Regulation (EU).../....[CAP Strategic Plan Regulation not applying for such payments.	
Article 84(1), first subparagraph b				
y	739g	Conditionality	Where a Member State does not apply that Article, it may set up a simplified control system for farmers with a maximum size of holding not exceeding 5 hectares of agricultural area declared in accordance with Article 67(1).	y
Article 84(1), second subparagraph				
g	740 Member States may make use of their existing control systems and administration to ensure compliance with the rules on conditionality.	Member States may make use of their existing control systems and administration to ensure compliance with the rules on conditionality.  Conditionality		g
Article 84(1), third subparagraph				
g	741 Those systems shall be compatible with the control system referred to in the first subparagraph of this paragraph.	Those systems shall be compatible with the control system referred to in the first subparagraph of this paragraph.  Conditionality	Those systems shall be compatible with the control-system <del>systems</del> referred to in the first <del>subparagraph</del> <b>and second subparagraphs</b> <del>subparagraph</del> of this paragraph.	g
Article 84(1), third subparagraph a				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
y	741a	<p><u><i>In order to ensure compliance with the applicable working and employment conditions resulting from relevant collective labour agreements and social and labour law at national, Union and international levels, Member States shall ensure cooperation between competent national authorities responsible for labour inspections and the control system referred to in the first subparagraph. In cross-border situations, coordination and cooperation shall also be ensured with the European Labour Authority (ELA) the functioning of which is regulated by Regulation (EU) 2019/1149 of the European Parliament and of the Council.</i></u></p> <p>Conditionality Social conditionality</p>		
Article 84(1), fourth subparagraph				
G	742	<p>Member States shall conduct a yearly review of the control system referred to in the first subparagraph in light of the results achieved.</p> <p>Conditionality</p>	<p>Member States shall conduct a yearly review of the control systems referred to in the first <del>subparagraph</del> <b>and second subparagraphs</b> in light of the results achieved.</p>	
Article 84(2), introductory part				
G	743	2. For the purposes of this Chapter,	2. For the purposes of this Chapter,	2.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the following definitions shall apply:	the following definitions shall apply: <b>Conditionality</b>		
Article 84(2), point(a)				
6 744	(a) "requirement" means each individual statutory management requirement under Union law referred to in Article 11 of Regulation (EU) .../[CAP Strategic Plan Regulation] within a given act, differing in substance from any other requirements of the same act;	(a) "requirement" means each individual statutory management requirement under Union law referred to in Article 11 of Regulation (EU) .../[CAP Strategic Plan Regulation] within a given act, differing in substance from any other requirements of the same act; <b>Conditionality</b>	(a) "requirement" means each individual statutory management requirement under Union law referred to in Article 11 of Regulation (EU) .../[CAP Strategic Plan Regulation] within a given <b>legal</b> act, differing in substance from any other requirements of the same <b>legal</b> act;	(a)
Article 84(2), point(b)				
6 745	(b) "act" means each of the individual Directives and Regulations referred to in Article 11 of Regulation (EU) .../[CAP Strategic Plan Regulation].	(b) "act" means each of the individual Directives and Regulations referred to in Article 11 of Regulation (EU) .../[CAP Strategic Plan Regulation]. <b>Conditionality</b>	(b) " <b>legal</b> act" means each of the individual Directives and Regulations referred to in Article 11 of Regulation (EU) .../[CAP Strategic Plan Regulation].	(b)
Article 84(2), point (ba)				
6 745a		<u><i>(ba) 'reoccurrence of a non-compliance' means the non-compliance with the same requirement or standard</i></u>		(ba) 'reoccurrence of a non-compliance' means the non-compliance with the same requirement or standard determined

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>determined more than once, provided that the beneficiary has been informed of a previous non-compliance and, as the case may be, has had the possibility to take the necessary measures to remedy that previous non-compliance.</u></p> <p>Conditionality</p>		more than once within a consecutive period of three calendar years, provided that the beneficiary has been informed of a previous noncompliance and, as the case may be, has had the possibility to take the necessary measures to remedy that previous non-compliance.
Article 84(3), introductory part				
6	746	<p>3. In their control system referred to in paragraph 1 Member States:</p> <p>3. In <u>order to comply with</u> their control <del>system referred to</del> <u>obligations laid down</u> in paragraph 1, Member States:</p> <p>Conditionality</p>		3.
Article 84(3), point(a)				
6	747	<p>(a) shall include on-the-spot checks to verify compliance by beneficiaries with the obligations laid down in Section 2 of Chapter 1 of Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation];</p> <p>(a) shall include on-the-spot checks to verify compliance by beneficiaries with the obligations laid down in Section 2 of Chapter 1 of Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation];</p> <p>Conditionality</p>	<p>(a) shall include on-the-spot checks to verify compliance by beneficiaries with the obligations laid down in Section 2 of Chapter <del>H</del> of Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation];</p>	(a)
Article 84(3), point(b)				
6	748	<p>(b) may decide, depending on the requirements, standards, acts or</p> <p>(b) may decide, depending on the requirements, standards, acts or</p>	<p>(b) may decide, depending on the requirements, standards, <b>legal</b> acts or</p>	(b)

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	areas of conditionality in question, to use the checks carried out under the control systems applicable to the respective requirement, standard, act or area of conditionality, provided the effectiveness of these checks is, at least, equal to the on-the-spot checks referred to in point (a);	areas of conditionality in question, to use the checks carried out under the control systems applicable to the respective requirement, standard, act or area of conditionality, provided the effectiveness of these checks is, at least, equal to the on-the-spot checks referred to in point (a); <b>Conditionality</b>	areas of conditionality in question, to use the checks, <b>including administrative checks</b> , carried out under the control systems applicable to the respective requirement, standard, <b>legal</b> act or area of conditionality, provided the effectiveness of these checks is, at least, equal to the on-the-spot checks referred to in point (a);	
Article 84(3), point(c)				
749	(c) may, where appropriate, make use of remote sensing or the area monitoring system to carry out the on-the-spot checks referred to in point (a);	(c) may, where appropriate <u>and feasible</u> , make use of remote sensing or the area monitoring <u>and control</u> system to carry out the on-the-spot checks referred to in point (a); <u>and</u> <b>Conditionality</b>	(c) may, where appropriate, make use of remote sensing or the area monitoring system <b>or other relevant technologies assisting them</b> to carry out the on-the-spot checks referred to in point (a);	(c)
Article 84(3), point (ca)				
749a		<u>(ca) shall establish an early warning system.</u> <b>Conditionality</b>		(ca)
Article 84(3), point(d)				
750	(d) establish the control sample for the checks referred to in point (a) to be carried out each year on the basis of a risk analysis and shall include a	(d) <del>establish the control sample for the checks referred to in point (a) to be carried out each year on the basis of a risk analysis and shall include a</del>	(d) <b>shall</b> establish the control sample for the checks referred to in point (a) to be carried out each year on the basis of a risk analysis,	(d)

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	random component and shall provide the control sample to cover at least 1% of beneficiaries receiving the aid provided for in Section 2 of Chapter 1 of Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation].	<del>random component and shall provide the control sample to cover at least 1% of beneficiaries receiving the aid provided for in Section 2 of Chapter 1 of Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation].</del> <b>Conditionality</b>	<b>taking into account farm structure and the inherent risk of non-compliance,</b> <del>and</del> shall include a random component and shall provide the control sample to cover at least 1% of beneficiaries receiving the aid provided for in Section 2 of Chapter 1 of Title III <b>support referred to in Article 11(1) of Regulation (EU) .../... [CAP Strategic Plan Regulation];</b>	
Article 84(3), point (e)				
750a		<b>Conditionality</b>	<b>(e) as regards the obligations of conditionality in relation to Directive 96/22/EC, the application of a specific sampling level of monitoring plans shall be considered to fulfil the requirement of the minimum rate mentioned in point (d).</b>	(da)
Article 84(3), point (f)				
750b		<b>Conditionality</b>	<b>(f) may decide, when using the simplified control system referred to in the second and third subparagraphs of paragraph 1, to exclude from the on-the-spot checks referred to in point (a) of this paragraph, the verification of compliance with the obligations referred in that point, where it can be demonstrated that cases of non-</b>	(db)

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			compliance by the beneficiaries concerned could not have grave consequences for the achievement of the objectives of the legal acts and standards.	
Article 84(3a)				
750c		<p><u>3a. Member States shall establish the control sample for the checks referred to in point (a) of paragraph 3 of this Article to be carried out each year on the basis of a risk analysis, for which they may apply weighting factors, and a random component, and shall ensure that the control sample covers at least 5 % of the beneficiaries receiving aid under Section 2 of Chapter 1 of Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation].</u></p> <p>Conditionality</p>		3a.
Article 84(3b)				
750d		<p><u>3b. The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules on simplified checks for farmers participating in the schemes referred to in Article 25 of Regulation (EU) .../... [CAP Strategic Plans Regulation].</u></p>		3b.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Conditionality		
Article 84(3c), introductory part				
y	750e	<p><u>3c. The Commission shall adopt, by means of implementing acts, rules on the carrying out of checks referred to in this Article, including rules ensuring that risk analysis takes account of the following factors:</u></p> <p>Conditionality</p>		3c.
Article 84(3c), point (a)				
y	750f	<p><u>(a) the participation of farmers in the farm advisory services system provided for in Article 13 of Regulation (EU) .../... [CAP Strategic Plan Regulation];</u></p> <p>Conditionality</p>		(a)
Article 84(3c), point (b)				
y	750g	<p><u>(b) the participation of farmers in a certification system as provided for in Article 12(3a) of Regulation (EU).../... [CAP Strategic Plan Regulation] once the Regulation covers the requirements and standards concerned.</u></p>		(b)

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Conditionality		
Article 84(3d)				
y	750h	<u>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).</u> Conditionality		3d.
Article 85				
y	751 Article 85 System of administrative penalties for conditionality	Article 85 System of administrative penalties for conditionality Conditionality		
Article 85(1), first subparagraph				
g	752 1. Member States shall set up a system providing for the application of administrative penalties to beneficiaries referred to in Article 11 of Regulation (EU) .../... [CAP Strategic Plan Regulation] who do not comply, at any time in the calendar year concerned, with the rules on conditionality as laid down in Section 2 of Chapter 1 of Title III of that Regulation ("penalty system").	1. Member States shall set up a system providing for the application of administrative penalties to beneficiaries referred to in Article 11 of Regulation (EU) .../... [CAP Strategic Plan Regulation] who do not comply, at any time in the calendar year concerned, with the rules on conditionality as laid down in Section 2 of Chapter 1 of Title III of that Regulation ("penalty system").	1. Member States shall set up a system providing for the application of administrative penalties to beneficiaries referred to in Article <del>11</del> <b>11(1)</b> of Regulation (EU) .../... [CAP Strategic Plan Regulation] who do not comply, at any time in the calendar year concerned, with the rules on conditionality as laid down in Section 2 of Chapter <del>I</del> of Title III of that Regulation ("penalty system").	1. Member States shall set up a system providing for the application of administrative penalties to beneficiaries referred to in Article 84(1) who do not comply, at any time in the calendar year concerned, with the rules on conditionality as laid down in Section 2 of Chapter I of Title III of that Regulation ("penalty system").

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Conditionality		
Article 85(1), second subparagraph, introductory part				
Y	753 Under that system, the administrative penalties referred to in the first subparagraph shall only apply where the non-compliance is the result of an act or omission directly attributable to the beneficiary concerned; and where one or both of the following conditions are met:	Under that system, the administrative penalties referred to in the first subparagraph shall only apply where the non-compliance is the result of an act or omission directly attributable to the beneficiary concerned; and where one, <i>two or all</i> <del>or both</del> of the following conditions are met:  Conditionality Social conditionality		
Article 85(1), second subparagraph, point(a)				
G	754 (a) the non-compliance is related to the agricultural activity of the beneficiary;	(a) the non-compliance is related to the agricultural activity of the beneficiary;  Conditionality	(a) the non-compliance is related to the agricultural activity of the beneficiary;	(a)
Article 85(1), second subparagraph, point(b)				
G	755 (b) the area of the holding of the beneficiary is concerned.	(b) the area of the holding of the beneficiary is concerned.  Conditionality	(b) the <del>area of the holding</del> <b>non-compliance concerns the holding as defined in point (b) of Article 3 of Regulation (EU) .../... [CAP Strategic Plan Regulation] or other areas managed by the beneficiary situated within the</b>	(b) the non-compliance concerns the holding as defined in point (b) of Article 3 of Regulation (EU) .../... [CAP Strategic Plan Regulation] or other areas managed by the beneficiary situated within the territory of the same Member State.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			territory of the beneficiary is concerned same Member State.	Text Origin: Council Mandate
Article 85(1), second subparagraph, point (ba)				
Y	755a	<u><i>(ba) the non-compliance affects the working and employment conditions of the workers employed by the beneficiary.</i></u> <b>Conditionality</b>		(ba)
Article 85(1), third subparagraph				
G	756	With regard to forest areas, however, the administrative penalty referred to in the first subparagraph shall not apply where no support is claimed for the area concerned in accordance with Articles 65 and 66 of Regulation (EU) .../[CAP Strategic Plan Regulation]. <b>Conditionality</b>	With regard to forest areas, however, the administrative penalty referred to in the first subparagraph shall not apply where no support is claimed for the area concerned in accordance with Articles 65 and 66 of Regulation (EU) .../[CAP Strategic Plan Regulation].	
Article 85(2), introductory part				
G	757	2. In their penalty systems referred to in paragraph 1, Member States: <b>Conditionality</b>	2. In their penalty systems referred to in paragraph 1, Member States:	2.
Article 85(2), point(a), first subparagraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
758	(a) shall include rules on the application of administrative penalties in cases where the land is transferred during the calendar year concerned or the years concerned. These rules shall be based on a fair and equitable attribution of the liability for non-compliances among transferors and transferees;	(a) shall include rules on the application of administrative penalties in cases where the <u>agricultural land, or an agricultural holding or part thereof</u> <del>land</del> is transferred during the calendar year concerned or the years concerned. These rules shall be based on a fair and equitable attribution of the liability for non-compliances among transferors and transferees.  <b>Conditionality</b>		(a)
Article 85(2), point(a), second subparagraph				
759	For the purpose of this point, 'transfer' means any type of transaction whereby the agricultural land ceases to be at the disposal of the transferor.	For the purpose of this point, 'transfer' means any type of transaction whereby the agricultural land ceases to be at the disposal of the transferor.  <b>Conditionality</b>		
Article 85(2), point(b)				
760	(b) may decide, notwithstanding paragraph 1, not to apply a penalty per beneficiary and per calendar year when the amount of the penalty is EUR 100 or less. The finding and the obligation to take remedial action shall be notified to the	(b) may decide, notwithstanding paragraph 1, not to apply a penalty per beneficiary and per calendar year when the amount of the penalty is EUR 100 or less. The finding and the obligation to take remedial action shall be notified to the	(b) may decide, notwithstanding paragraph 1, not to apply a penalty per beneficiary and per calendar year when the amount of the penalty is EUR <del>100</del> <b>250</b> or less. The <b>beneficiary shall be informed about the</b> finding and the obligation	(b) may decide, notwithstanding paragraph 1, not to apply a penalty per beneficiary and per calendar year when the amount of the penalty is [EUR 100/250] or less. The beneficiary shall be informed about the finding and the obligation to take

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	beneficiary;	beneficiary; <b>Conditionality</b>	to take remedial action <del>shall be notified to the beneficiary</del> <b>for the future;</b>	remedial action for the future; <small>Text Origin: Council Mandate</small>
Article 85(2), point(c)				
y	761 (c) shall provide that no administrative penalty be imposed where the non-compliance is due to force majeure.	(c) shall provide that no administrative penalty be imposed <del>where the non-compliance is due to force majeure</del> <b>if:</b> <b>Conditionality</b>	(c) shall provide that no administrative penalty be imposed where the non-compliance is due to force majeure <b>or exceptional circumstances as set out in Article 3.</b>	(c) shall provide that no administrative penalty be imposed if: <small>Text Origin: EP Mandate</small>
Article 85(2), point(c)(i)				
y	761a	<u><i>i the non-compliance is due to force majeure;</i></u> <b>Conditionality</b>		i the non-compliance is due to force majeure or exceptional circumstances as set out in Article 3;
Article 85(2), point(c)(ii)				
g	761b	<u><i>ii the non-compliance is due to an order from a public authority; or</i></u> <b>Conditionality</b>		ii the non-compliance is due to an order from a public authority; or <small>Text Origin: EP Mandate</small>
Article 85(2), point(c)(iii)				
y	761c	<u><i>iii the non-compliance is due to an error of the competent authority or another authority, and where the error could not reasonably have</i></u>		iii

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		<u>been detected by the beneficiary subject to the administrative penalty.</u>  Conditionality		
Article 85(3)				
762	3. The application of an administrative penalty shall not affect the legality and regularity of the expenditure to which it applies.	3. The application of an administrative penalty shall not affect the legality and regularity of the expenditure to which it applies.  Conditionality		3.
Article 86				
763	Article 86 Calculation of the penalty	Article 86 Calculation of the penalty  Conditionality	Article 86 <b>Application and</b> calculation of the penalty	Article 86 Application and calculation of the penalty  Text Origin: Council Mandate
Article 86(1), first subparagraph				
764	1. The administrative penalties provided for in Section 2 of Chapter 1 of Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation] shall be applied by means of reduction from or exclusion of the total amount of the payments listed in that Section of that Regulation granted or to be	1. The administrative penalties <del>provided for in Section 2 of Chapter 1 of Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation]</del> shall be applied by means of reduction <del>from</del> or exclusion of the total amount of the payments listed in <del>that Section of that Regulation</del> <u>Article 84(1)</u>	1. The administrative penalties provided for in Section 2 of Chapter <del>H</del> I of Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation] shall be applied by means of reduction from or exclusion of the total amount of the payments listed in that Section of that Regulation granted or to be	1. The administrative penalties provided for in Section 2 of Chapter I of Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation] shall be applied by means of reduction from or exclusion of the total amount of the payments granted or to be granted to the beneficiaries listed in Article 84

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	granted to the beneficiary concerned in respect of aid applications he has submitted or will submit in the course of the calendar year of the finding.	granted or to be granted to the beneficiary concerned in respect of aid applications <u>that beneficiary</u> <del>he</del> has submitted or will submit in the course of the calendar year of the finding.  Conditionality	granted to the beneficiary concerned in respect of aid applications <b>that have been</b> <del>he has submitted</del> or will <del>submit</del> <b>be submitted</b> in the course of the calendar year of the finding.	(1) in respect of aid applications that have been or will be submitted in the course of the calendar year of the finding.
Article 86(1), second subparagraph				
765	For the calculation of those reductions and exclusions, account shall be taken of the severity, extent, permanence, reoccurrence or intentionality of the non-compliance determined. The penalties imposed shall be dissuasive and proportionate, and compliant with the criteria set out in paragraphs 2 and 3 of this Article.	For the calculation of those reductions and exclusions, account shall be taken of the severity, extent, permanence, reoccurrence or intentionality of the non-compliance determined. The penalties imposed shall be dissuasive and proportionate, and compliant with the criteria set out in paragraphs 2 and 3 of this Article.  Conditionality	For the calculation of those reductions and exclusions <sup>1</sup> , account shall be taken of the severity, extent, permanence <b>or reoccurrence and, if Member States so decide,</b> <del>reoccurrence or</del> intentionality of the non-compliance determined. The penalties imposed shall be dissuasive and proportionate. <b>Where the area monitoring system is not used as an alternative to the on-the-spot-checks on a control sample as referred to in point (d) of Article 84(3), the penalties shall comply, and compliant</b> with the criteria set out in paragraphs 2, <b>2a, 2c</b> and 3 of this Article. <b>The administrative penalties referred to in the first subparagraph of this paragraph shall be based on the controls carried out according to Article 84(3).</b>  <b>1. Depending on a decision of the Court C-361/19, clarification regarding the year on</b>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			which calculation should be based will follow.	
Article 86(2), first subparagraph				
766	2. In the case of non-compliance due to negligence, the percentage of reduction shall be as a general rule 3% of the total amount of the payments referred to in paragraph 1 of this Article.	2. In the case of non-compliance due to negligence, the percentage of reduction shall be as a general rule 3% of the total amount of the payments referred to in paragraph 1 of this Article. <u><i>That reduction shall be determined on the basis of the assessment of the severity of the non-compliance, based on the criteria set out in paragraph 1 of this Article.</i></u> <b>Conditionality</b>	2. <del>In the case of non-compliance due to negligence, the percentage of</del> <b>The</b> reduction shall be as a general rule <del>3%</del> <b>1%, 3% or 5%</b> of the total amount of the payments referred to in paragraph 1 of this Article.	2.
Article 86(2a), first subparagraph				
766a		<b>Conditionality</b>	<b>2a. In the case that non-compliance has no or only insignificant consequences for the achievement of the objective of the standard or requirement concerned, no administrative penalty shall be applied. The beneficiary shall be informed about the non-compliance and possible remedial actions to be taken.</b>	2.
Article 86(2a), second subparagraph				

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767	Member States may set up an early warning system that applies to individual cases of non-compliance occurring for the first time and which, given their minor severity, extent and permanence, shall not lead to a reduction or exclusion. Where a subsequent check within three consecutive calendar years establishes that the non-compliance has not been remedied, the reduction pursuant to the first subparagraph shall be applied retroactively.	Member States <del>may</del> <u>shall</u> set up <u>and use the <del>an</del> early warning system referred to in Article 84(3)</u> that applies to individual cases of non-compliance occurring for the first time and which, given their minor severity, extent and permanence, shall not lead to a reduction or exclusion. <u>The relevant authority shall notify the beneficiary of the obligation to take remedial action and propose corrective measures that have to be taken to remedy the non-compliance.</u> Where a subsequent check within three consecutive calendar years establishes that the non-compliance has not been remedied, the reduction pursuant to the first subparagraph shall be applied retroactively.  <b>Conditionality</b>	<del>Member States may set up an early warning system that applies to individual cases of non-compliance occurring for the first time and which, given their minor severity, extent and permanence, shall not lead to a reduction or exclusion. Where a subsequent check</del> <b>In case the non-compliance persists or reoccurs</b> within three consecutive calendar years <del>establishes that the non-compliance has not been remedied, the,</del> a reduction pursuant to the first subparagraph <b>shall paragraph 2</b> may be applied retroactively.	
Article 86(2), third subparagraph				
768	However, cases of non-compliance which constitute a direct risk to public or animal health shall always lead to a reduction or exclusion.	However, cases of non-compliance which constitute a direct risk to public or animal health shall always lead to a reduction or exclusion.  <b>Conditionality</b>	<i>deleted</i>	
Article 86(2), fourth subparagraph				
769				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Member States may provide mandatory training under the farm advisory system provided for in Section 3 of Chapter 1 of Title III of Regulation (EU) .../[CAP Strategic Plan Regulation] to the beneficiaries who have received an early warning.	Member States <del>may</del> <u>shall</u> provide <u>for specific</u> <del>mandatory</del> training <u>on conditionality</u> under the farm advisory system provided for in Section 3 of Chapter 1 of Title III of Regulation (EU) .../[CAP Strategic Plan Regulation] to the beneficiaries who have received an early warning, <u>attendance of which may be made mandatory</u> .  <b>Conditionality</b>	Member States may provide mandatory training under the farm advisory <del>system</del> <b>services</b> provided for in Section 3 of Chapter <del>1</del> of Title III of Regulation (EU) .../[CAP Strategic Plan Regulation] to the beneficiaries <del>who have received an early warning</del> <b>to whom this paragraph has been applied</b>	Member States shall provide for specific training on conditionality under the farm advisory system provided for in Section 3 of Chapter 1 of Title III of Regulation (EU) .../[CAP Strategic Plan Regulation] to the beneficiaries [who have received an early warning], attendance of which may be made mandatory.  <small>Text Origin: EP Mandate</small>
Article 86(2b)				
769a		<b>Conditionality</b>	<b>2b. If a Member State uses the area monitoring system referred to in point c of Article 64(1) to detect cases of non-compliance, it may decide to apply lower percentage of reductions than those provided for in paragraph 2</b>	2a.
Article 86(2c)				
769b		<b>Conditionality</b>	<b>2c. In the case that non-compliance has grave consequences for the achievement of the objective of the standard or requirement concerned, the percentage reduction shall be higher than the one applied in accordance with paragraph 2.</b>	2b.
Article 86(3)				

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770	3. In case of reoccurrence, the percentage reduction shall be higher than the one to be applied in case of non-compliance due to negligence and sanctioned for the first time.	3. In <u>the</u> case of reoccurrence <u>of a non-compliance</u> , the percentage reduction shall be, <u>e as a general rule, 10 % of the total amount of the payments referred to in paragraph 1</u> <del>higher than the one to be applied in case of non-compliance due to negligence and sanctioned for the first time.</del> <b>Conditionality</b>	3. In case of reoccurrence <b>or, where applicable, intentionality</b> , the percentage reduction shall be higher than the one <b>applied in accordance with paragraph 2. In cases of intentional</b> <del>to be applied in</del> ease of non-compliance due to negligence and sanctioned for the first time <b>of extreme extent, severity or permanence, the beneficiary may be excluded from all the payments referred to in the first subparagraph of paragraph 1 in the following calendar year.</b>	3.
Article 86(3a)				
770a		<u>In the case of subsequent reoccurrences of non-compliance, and if no justified reason is provided by the beneficiary concerned, that beneficiary shall be considered to have acted intentionally within the meaning of paragraph 4.</u> <b>Conditionality</b>	3a. In cases other than those referred to in paragraph 2c, Member States may decide not to apply an administrative penalty to beneficiaries to whom the simplified control system referred to in the second and third subparagraphs of Article 84(1) applies.	3a.
Article 86(4)				
771	4. In case of intentional non-compliance, the percentage shall be higher than the one applied in case of reoccurrence pursuant to	4. In <u>the</u> case of intentional non-compliance, the percentage <u>reduction</u> shall be <u>at least 15 % of the total amount of the payments</u>	<i>deleted</i>	4.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	paragraph 3 and may go as far as total exclusion from payments and may apply for one or more calendar years.	<i>referred to in higher than the one applied in case of reoccurrence pursuant to</i> paragraph <del>3</del> <u>1</u> and may <del>go as far as</del> <i>amount to the</i> total exclusion from payments and may apply for one or more calendar years.  Conditionality		
Article 86(5)				
772	5. In order to ensure a level-playing field between Member States and the effectiveness and dissuasive effect of the penalty system, the Commission shall be empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with further rules on the application and calculation of penalties.	5. In order to ensure a level-playing field between Member States and the effectiveness and dissuasive effect of the penalty system, the Commission shall be empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with further rules on the application and calculation of penalties.  Conditionality	<del>54.</del> In order to ensure a level-playing field between Member States and the effectiveness, <b>proportionality</b> and dissuasive effect of the penalty system, the Commission <del>shall be</del> <b>is</b> empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with <del>further</del> <b>detailed</b> rules on the application and calculation of penalties.	5.
Article 87				
773	Article 87 Amounts resulting from the administrative penalties on conditionality	Article 87 Amounts resulting from the administrative penalties on conditionality  Conditionality		Article 87 Amounts resulting from the administrative penalties on conditionality  Text Origin: Commission Proposal

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 87, first paragraph				
6	774	Member States may retain 20 % of the amounts resulting from the application of the reductions and exclusions referred to in Article 86.	Member States may retain <del>20</del> <sup>25</sup> % of the amounts resulting from the application of the reductions and exclusions referred to in Article 86.  <b>Conditionality</b>	Member States may retain <del>20 %</del> <b>25%</b> of the amounts resulting from the application of the reductions and exclusions referred to in Article 86.