

ASSEMBLY OF THE PORTUGUESE REPUBLIC
EUROPEAN AFFAIRS COMMITTEE

OPINION

COM(2013)327

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005, Directive 2009/128/EC and Regulation (EC) No 1107/2009 and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC.

PART I – INTRODUCTORY REMARKS

Pursuant to Article 7 of Law No 43/2006 of 25 August 2006, as amended by Law No 21/2012 of 17 May 2012, on the monitoring, examination and issuing of opinions by the Assembly of the Portuguese Republic in the context of the process of EU integration and in accordance with the Guidelines for the Scrutiny of EU Initiatives approved on 20 January 2010, the European Affairs Committee received the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005, Directive 2009/128/EC and Regulation (EC) No 1107/2009 and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC. [COM(2013)327]

Given its subject-matter, the above-mentioned initiative was sent to the Committee for Agriculture and the Sea, which examined it and approved the Report attached hereto, which forms an integral part of this Opinion.

PART II - GROUNDS

1 - The initiative relates to the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005, Directive 2009/128/EC and Regulation (EC) No 1107/2009 and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC.

2 - The Proposal under discussion is an integral part of the 'Healthier Animals and Plants for a Safer Food Chain Package', which includes proposals for animal health policy, the plant health regime, the regime for production and making available on the market of plant reproductive material, and the rules governing official controls and other official activities aimed at ensuring the application of the relevant legislation, and was the subject of an impact assessment carried out by the Directorate-General for Health and Consumers in August/September 2012.

3 - More specifically, the Proposal aims to modernise the financial provisions applicable to the above-mentioned areas, following the conclusions of the European Council on 7 and 8 February 2013, in which the Commission set the maximum amount of EUR 1 892 million for expenditure on food and feed measures during the entire 2014-2012 period.

4 - The Proposal sets out measures and eligible costs, and rationalises funding rates. Thus, a standard funding rate is set at 50% of the eligible costs and may be increased under certain conditions to 75% and 100%. However, and in all cases, the Proposal sets a minimum grant amount of EUR 50 000, which is in part a means of avoiding the administrative burdens involved in managing micro-programmes.

5 - The initiative also provides for access to the reserve for crises in the agricultural sector in certain circumstances and stipulates that EU participation will also cover survey programmes for the presence of pests and phytosanitary support measures for the outermost territories of Member States, in order to protect the EU against pests associated with trade globalisation and climate change.

6 - It is important to state here that the main current financial legal framework used for funding these areas comprises Council Decision 2009/470/EC for veterinary eradication programmes and veterinary emergency measures, Council Directive 2000/29/EC for plant health measures and Regulation (EC) No 882/2004 of the European Parliament and of the Council for funding measures regarding official controls. Further specific financial provisions are contained in Regulation (EC) No 396/2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin, in Regulation (EC) No 1107/2009 concerning the placing of plant protection products on the market, in Directive 2009/128/EC establishing a framework for Community action to achieve the sustainable use of pesticides, as well as in numerous other Council Directives related to animal and plant health.

7 - It should be pointed out that the current framework is very fragmented and quite complex as a result of changes it has undergone over time, and no longer complies with some provisions of the Financial Regulation. It therefore requires greater rationalisation – a challenge which this Regulation aims to meet.

In the light of the provisions of the Proposal, the following issues must be considered:

a) Legal basis

The Proposal is based on Article 43(2) and Article 168(4)(b) of the Treaty on the Functioning of the European Union (TFEU).

b) Principle of subsidiarity

This Proposal for a Regulation aims to pursue the objectives of the Common Agricultural Policy, together with measures to ensure a high level of human health, by providing financial support for measures taken by the EU and by the Member States in the areas of human, animal and plant health throughout the food chain and consumer protection, as well as informing consumers about the food chain.

Due regard is shown for the principle of subsidiarity, since the aims of the initiative under discussion would not be sufficiently achieved at the level of individual Member States, and can be better achieved at EU level.

c) Principle of proportionality

Given that the Proposal does not go beyond the measures necessary to achieve its proposed aims, and since it limits Community action to that strictly necessary to achieve the objectives of the Treaties, it can be deemed compliant with the principle of proportionality. However, Article 6(4) (on maximum rates and minimum grant amounts) is at odds with the interests of smaller Member States such as Portugal.

Given the small scale of the national measures and programmes in pursuit of the defined aims, and in view of the minimum limits, the majority of these Member States will ultimately be ineligible for many of the Community contributions provided for in the current Proposal, even though these national programmes and measures are required under Community law.

This argument will hold as long as there is no substantial reduction in or removal of the minimum threshold for Community funding currently proposed.

III – RAPPORTEUR'S OPINION

Although the Rapporteur is not required to issue an opinion, she considers it important to emphasise the importance of the particular effects of this proposal on smaller Member States.

The replacement of the current financial provisions with a single financial framework capable of optimising the implementation and functioning of financial management of expenditure in the field of food and feed has long since become a matter of urgency. However, the thresholds outlined could have a devastating impact on the agricultural sectors of the smallest Member States.

In introducing such a high minimum grant threshold for countries whose agricultural production is based on small holdings, the main objectives of simplifying management structures have been overlooked. Such objectives go beyond the rationalisation of resources and aim to achieve a high level of safety of food and food production systems, and a higher animal health status and animal welfare, while ensuring the detection and eradication of pests and the efficient implementation of official controls.

Instead, if the minimum grant amount is maintained, there is a risk that the current Proposal will sound the death knell for small farmers in the EU and consequently for smaller countries which depend on them.

On the positive side, the rapporteur highlights the attention paid in the Regulation to the difficulties faced by the outermost regions of the Member States, given their remoteness and dependence on imported products, a concern which is addressed in the provisions on survey programmes for the presence of pests and phytosanitary support measures for the outermost territories, which may target the control of pests in the Portuguese regions of the Azores and Madeira, although here too, the problem of the minimum grant amount referred to above applies.

PART IV – OPINION

In the light of the grounds set out above and the report by the committee responsible, the European Affairs Committee takes the view that:

1. This initiative does not breach the principle of subsidiarity in so far as the objective will be achieved more effectively by means of action at Union level.
2. The Proposal is not in accordance with the principle of proportionality in so far as the minimum threshold of EUR 50 000 applicable to the grants provided for will mean that the national measures and programmes of the smaller Member States are not eligible for most of the Community funding under the current Proposal.
3. As regards the issues raised in the grounds, the European Affairs Committee will continue to monitor the legislative process relating to this initiative, specifically by exchanging information with the government.

Palácio de S. Bento, 24 July 2013

Rapporteur

(signature)

Lídia Bulcão

Chairman of the Committee

(signature)

Paulo Mota Pinto

PART V – ANNEX

Report by the Committee for Agriculture and the Sea

Report by the Committee for Agriculture and the Sea

[Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005, Directive 2009/128/EC and Regulation (EC) No 1107/2009 and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC]

COM (2013) 327

Rapporteur Miguel Freitas

ASSEMBLY OF THE PORTUGUESE REPUBLIC

Committee for Agriculture and the Sea

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PART I – INTRODUCTORY REMARKS

Pursuant to Article 7 of Law No 43/2006 of 25 August 2006, as amended by Law No 21/2012 of 17 May 2012, on the monitoring, examination and issuing of opinions by the Assembly of the Portuguese Republic in the context of the process of EU integration, the **Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005, Directive 2009/128/EC and Regulation (EC) No 1107/2009 and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC [COM(2013)327]** was, in view of its subject-matter, sent to the Committee for Agriculture and the Sea to be examined and for this report, which falls within its remit, to be drawn up. The report was distributed on 11 June 2013.

PART II – GROUNDS

The **Proposal for a Regulation of the European Parliament and of the Council laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005, Directive 2009/128/EC and Regulation (EC) No 1107/2009 and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC** aims to lay down provisions for the management of expenditure from the general budget of the European Union in the fields covered by Union rules on:

- a) food and food safety, at any stage of production, processing, distribution and disposal of food, including rules aimed at guaranteeing fair practices in trade and protecting consumer interests and information, and the manufacture and use of materials and articles intended to come into contact with food;
- b) feed and feed safety, at all stages of production, processing, distribution and disposal of feed and the use of feed, including rules aimed at guaranteeing fair practices in trade and protecting consumer interests and information;
- c) animal health and welfare;
- d) protective measures against organisms harmful to plants or plant products as defined in Directive 2000/29/EC;
- e) the production, with a view to placing on the market, and placing on the market of plant reproductive material;
- f) the placing on the market of plant protection products and the sustainable use of pesticides;
- g) the prevention and reduction of risks to public and animal health arising from animal by-products and derived products;
- h) the deliberate release into the environment of genetically modified organisms;
- i) the protection of intellectual property right in relation to plant varieties and conservation and exchange of plant genetic resources.

More specifically, the Proposal aims to modernise the financial provisions applicable to the above-mentioned areas in the light of the conclusions of the European Council held on 7 and 8 February, in which the Commission proposed a maximum amount of EUR 1 892 million (in

current prices) for expenditure on food and feed measures during the entire 2014-2020 period (it should be recalled that on 29 June 2011, the European Commission presented its proposal for a multiannual financial framework for 2014-2020, which was amended on 6 July 2012), since there was a pressing need to replace the current financial provisions (with multiple legal bases) with a single financial framework, capable of optimising the implementation and functioning of the financial management of Community expenditure in the above-mentioned areas.

In this context, the objectives pursued are "*a high level of safety of food and food production systems, a higher animal health status and animal welfare, the detection and eradication of pests, to ensure an effective implementation of official controls*", and these determine the measures and costs provided for in this Proposal for a Regulation.

It should be pointed out that the funding rates are rationalised, with a standard funding rate set at 50% of the eligible costs which may be increased to 75% or 100% under certain conditions. In all cases, the Proposal for a Regulation sets a minimum grant amount of EUR 50 000.

The Proposal for a Regulation is an integral part of the 'Healthier Animals and Plants for a Safer Food Chain Package', and was the subject of an impact assessment carried out by the Directorate-General for Health and Consumers in August/September 2012.

1. Principle of subsidiarity

The legal basis for the Proposal is provided by Article 43(2) and Article 168(4)(b) of the TFEU, in other words it is submitted within the context of the implementation of the Common Agricultural Policy and in accordance with the ordinary legislative procedure, after consulting the Economic and Social Committee and the Committee of the Regions, with a view to contributing in this respect to the implementation of common public health aims.

In this context, the Proposal for a Regulation aims to pursue the objectives of the Common Agricultural Policy, together with measures to ensure a high level of human health, by providing financial support for measures taken by the EU and by the Member States in the areas of human, animal and plant health throughout the food chain and consumer protection, as well as informing consumers about the food chain.

Due regard has been shown for the principle of subsidiarity, since the objectives of modernising the financial provisions applicable to the above-mentioned areas (following the conclusions of the European Council held on 7 and 8 February 2013) will be better achieved at Community level and require intervention by the European legislator.

2. Principle of proportionality

The Proposal for a Regulation complies with the principle of proportionality, on the basis that it does not go beyond measures necessary in order to achieve the objectives proposed, and Community action is limited to what is strictly necessary in order to achieve the objectives of the Treaties.

However, Article 6(6) (on 'maximum rates and minimum amount of grants') provides that "*no grant of less than EUR 50 000 shall be awarded*". This provision is at odds with the interests of smaller Member States such as Portugal, given the small scale of national programmes and measures in pursuit of the objectives stipulated, which means that most of these Member States will not be eligible for the Community funding provided for in the Proposal even though their national measures and programmes are required under Community law.

This argument will hold as long as there is no substantial reduction in or removal of the minimum limit for Community funding currently proposed.

PART III – CONCLUSIONS

In the light of the above, the Commission for Agriculture and the Sea concluded the following:

1. The Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005, Directive 2009/128/EC and Regulation (EC) No 1107/2009 and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC aims to lay down provisions for the management of expenditure from the general budget of the European Union aimed at ensuring a high level of health for humans, animals and plants along the food chain and in related areas and a high level of protection for consumers and the environment.
2. More specifically, the Proposal aims to contribute to a high level of safety of food and food production systems and of other products which may affect the safety of food, while improving the sustainability of food production. It also aims to contribute to a higher animal health status in the Union and to support the improvement of the welfare of animals, as well as to contribute to the timely detection of pests and their eradication where those pests have entered the EU.
3. The Proposal complies with the principle of subsidiarity in that its objective cannot be sufficiently achieved by the Member States and may be better achieved at EU level and it may thus adopt measures in accordance with the principle of subsidiarity enshrined in Article 5 of the TFEU.
4. The Proposal breaches the principle of proportionality, since the minimum grant amount provided for in Article 6(6) is EUR 50 000, which, given the small scale of the national programmes and measures of the smaller Member States, will make these countries ineligible for most of the Community contributions under the Proposal.
5. The Committee for Agriculture and the Sea has concluded the scrutiny of this initiative and hereby submits this Report, in accordance with Law No 43/2006 of 25 August 2006, to the European Affairs Committee for the appropriate purposes.

Palácio de S. Bento, Tuesday 16 July 2013

Rapporteur	Chairman of the Committee
(signature)	(signature)
(Miguel Freitas)	(Vasco Cunha)