BRIEFING

EU Legislation in Progress
2021-2027 MFF

CAP horizontal regulation

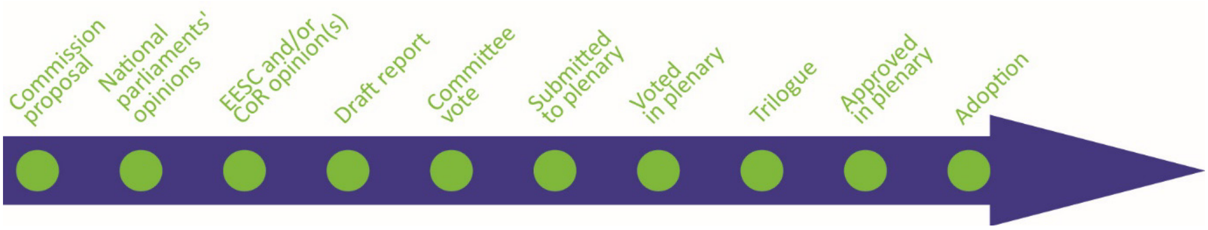
Financing, management and monitoring of the common agricultural policy for 2023-2027

OVERVIEW

As part of the preparation of the EU budget for 2021-2027, the European Commission put forward a new set of regulations to shape the future EU Common Agricultural Policy (CAP) on 1 June 2018. The proposal for a regulation on the financing, management and monitoring of the CAP provides the legislative framework for adapting the financing, management and monitoring rules to a new CAP delivery model. This seeks to achieve more subsidiarity and simplification, with greater responsibility given to Member States, a shift from ensuring single transaction compliance to monitoring system performance in each Member State, and reduced 'red tape', among other things. Following their adoption in December 2021, the new CAP regulations will apply from 1 January 2023.

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

Committee responsible:	Agriculture and Rural Development (AGRI)	COM(2018) 393 1.6.2018
Rapporteur:	Ulrike Müller (Renew Europe, Germany)	2018/0217(COD)
Shadow rapporteurs:	Anne Sander (EPP, France) Pina Picierno (S&D, Italy) Tilly Metz (Greens/EFA, Luxembourg) Ivan David (ID, Czechia) Krzysztof Jurgiel (ECR, Poland) Chris MacManus (The Left, Ireland)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
Procedure completed.	Regulation (EU) 2021/2116 OJ L 435, 6.12.2021, pp. 187–261	



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Introduction

In preparing the EU budget for the 2021-2027 programming period, the European Commission adopted a set of legislative proposals to redefine the way the CAP works on 1 June 2018. These proposals follow the November 2017 communication on the future of food and farming. They put forward a new CAP delivery model that should lead to a more results-based policy and greater flexibility in its implementation, while preserving its common dimension. According to the Commission, simplification of the current system is a key element of the future CAP, which will be achieved through more subsidiarity, increasing Member States' responsibilities in implementing the policy and reducing EU-level bureaucracy in the management of the measures.

Commission proposals include a regulation on the CAP strategic plans, another on the common organisation of the markets in agricultural products and other CAP measures, as well as a CAP horizontal regulation, which covers elements such as the governance structure and financing of agricultural expenditures, the clearance of accounts and the control system.

Context

The May 2018 Commission proposal for a multiannual financial framework (MFF) for the 2021-2027 period set out an overall amount of €324 billion for agricultural policy measures (in 2018 prices). Nearly 80 % of this amount is allocated to direct payments to farmers and to agricultural market measures, under the European Agricultural Guarantee Fund (EAGF), while the remaining part supports rural development, under the European Agricultural Fund for Rural Development (EAFRD). Such allocation means a reduction of 15 % compared to the total EU envelope for the 2014-2020 programming period (also taking into account changes between the two programming periods, such as by deducting allocations to the United Kingdom from the current MFF). Despite this budget cut, the CAP is the second biggest policy in the 2021-2027 MFF proposal in terms of funding, second only to cohesion policy. However, its share of the EU budget has fallen below 30 % of the total for the first time.

The lengthy negotiations on the 2021-2027 MFF were further delayed by the outbreak of the coronavirus pandemic in early 2020. In response to the coronavirus crisis, in May 2020 the Commission put forward a new MFF proposal accompanied by a proposal for a recovery instrument, Next Generation EU (NGEU), for the EU countries to strengthen their economies in the aftermath of the crisis. EU leaders agreed on the amount and allocation of funds in July 2020. According to this agreement, the total allocation for agricultural policy slightly increased compared to May 2018 Commission proposal, especially thanks to additional funds for rural development. However, this agreement allocated less funds to agricultural policy than the May 2020 Commission proposal, as shown in table 1.

Table 1 – CAP allocations 2021-2027 (2018 prices, € million)

	Commission proposal May 2018 (MFF)	Commission proposal May 2020 (MFF+NGEU)	European Council position July 2020 (MFF+NGEU)
Agricultural policy total	324 284	348 264	343 944
European Agricultural Guarantee Fund (EAGF)	254 247	258 251	258 594
European Agricultural Fund for Rural Development (EAFRD)	70 037	90 013	85 350

Source: EPRS infographic on the 2021-2027 MFF and the recovery instrument, NGEU, 2020.

In early November 2020, negotiators from Parliament and Council reached an agreement that left the agriculture budget figures unchanged compared to the July 2020 European Council position, but finds additional resources for Parliament's priority programmes in such areas as research, health and education. This concerns agriculture as well, given that according to the 2021-2027 MFF proposal, EU agriculture should also benefit from funds dedicated to research and innovation in food, agriculture, rural development and the bioeconomy coming from the Horizon Europe programme. However, such funds are not part of agricultural policy *strictu sensu* and thus they are not governed by the proposed CAP horizontal regulation. The MFF Regulation for 2021-2027 was finally adopted on 17 December 2020.

Existing situation

General agricultural policy framework

Agriculture is one of the areas where the EU and its Member States share competence in formulating and implementing policy. Besides this principle, stated in Article 4, the Treaty on the Functioning of the European Union (TFEU) provides the legal basis for a common agricultural policy (Article 38), with set objectives (Article 39) and a common organisation of agricultural markets (Article 40), thereby establishing one of the EU's oldest and most important policies.

Successive policy reforms have reshaped EU agricultural policy. The different elements of the 2014-2020 CAP are set out in four regulations: on direct payments to farmers (EU Regulation 1307/2013); on common organisation of the markets in agricultural products (EU Regulation 1308/2013); on support for rural development (EU Regulation 1305/2013) and on the financing, management and monitoring of the CAP (EU Regulation 1306/2013). These regulations created a two-pillar structure: one regulating farmers' income support and measures to deal with difficult market situations, solely funded by the EU budget, and one for rural development measures based on multiannual national (sometimes regional) programmes, co-financed by Member States.

Financing, management and control

With a significant part of its budget allocated to the CAP, the EU is the main source of funding for agriculture, in recognition of its role in ensuring food security and in taking care of natural resources and the countryside. Regulation 1306/2013 provides rules for the financing of CAP expenditure under the two EU funds and for the relevant management and control systems, with provisions specific to each fund and common provisions applying to both funds.

As for the EAGF payments, according to the principle of shared management, Member States' paying agencies make payments to beneficiaries of market-related expenditure and direct payments with the Commission reimbursing the Member States on a monthly basis afterwards. These payments are subject to financial and budgetary discipline that ensures the respect of set annual ceilings. Moreover, a reserve for major crises affecting agricultural production or distribution was established, for a total amount of €400 million per year. The shared management principle also applies to EAFRD payments: the Commission does not make payments to beneficiaries, but makes funds available to Member States within a set ceiling, for expenditures under their rural development programmes. The funds are available in the form of an initial prefinancing amount, interim payments to reimburse expenditure to the paying agencies, and the payment of a balance after the Commission receives the last annual progress report.

Most of the provisions on control of expenditure compliance with EU rules are common to both the EAGF and the EAFRD. First of all, the Commission's clearance of account procedures verify the proper functioning of the management and control systems in the Member State, with the possibility of the Commission carrying out on-the-spot checks, while annual financial clearance of the paying agencies' accounts is performed by the Member State audit bodies. Furthermore, Commission conformity clearance for the expenditure ensures the conformity of all CAP payments and the recovery of amounts spent unduly. From the Commission's perspective, recovery means a financial correction to exclude expenditure from EU financing, while Member States are then responsible for recovering irregular payments from the beneficiaries.

Secondly, Member States are responsible for protecting the EU's financial interest and this is why Regulation 1306/2013, besides establishing rules on checks to be performed by the national authorities and on administrative penalties that may be imposed on beneficiaries, requires Member States to put an integrated administration and control system (IACS) in place for the management of most EU agricultural spending. IACS is based on information technology (ICT) tools that interconnect all databases needed for CAP payments to run smoothly: a system for the identification of all agricultural parcels (land parcel identification system, LPIS); a system for the identification of payment entitlements; a system for the unique identification of beneficiaries; and a database for animals where animal-based aid schemes apply. This integrated control system provides support along the whole process of CAP payments, from aid application to payment verification.

Other provisions on the control system for CAP expenditure include scrutiny by Member States of the commercial documents of those entities directly or indirectly connected with transactions carried out within the EAGF financing system, and the checks related to marketing rules and the EU quality schemes.

If farmers want to avoid penalties that reduce CAP funds, besides all those rules stemming from EU legislation (such as the identification and registration of animals, and the protection of water quality from nitrates), they have to apply a set of standards on the good agricultural and environmental condition of land (GAEC), which include protection of water, soil and landscape. Regulation 1306/2013 sets rules on cross-compliance (annex II) and on Member State checks and penalties.

The combined impact of all CAP 2014-2020 instruments is measured through a monitoring and evaluation framework, in relation to the following objectives: (a) viable food production; (b) sustainable management of natural resources and climate action; (c) balanced territorial development. The performance of the CAP is therefore measured against a set of indicators and by means of recurring evaluations of market and income instruments and rural development measures. An initial Commission report to the Parliament and the Council on the monitoring and evaluation of the CAP, including the first results of the policy performance, was published on 5 December 2018; a second report including an assessment of the performance of the CAP is due by 31 December 2021.

Finally, Regulation 1306/2013 introduces more transparency in EU agricultural spending by requiring Member States ensure annual ex-post publication of the beneficiaries of CAP payments.

All these rules on CAP management and control systems are often blamed for the alleged administrative burden arising from the CAP. Findings of a study on the CAP administrative burden talk about CAP administrative costs being below or similar to other EU policies, although the 2013 CAP reform increased costs for national authorities by a third (while they did not substantially increase for farmers). The study concluded that there is limited availability and inconsistency of data on administrative costs related to CAP implementation, and considerable variation in costs between Member States, depending on national governance structures. Moreover, the use of new technologies for management and control of the CAP are proven to create benefits in terms of burden reduction.

Parliament's starting position

On 30 May 2018, Parliament adopted a resolution (2018/2037) on the future of food and farming, with Herbert Dorfmann (EPP, Italy) as rapporteur, which represents Parliament's view on the future CAP, as depicted in the Commission's communication of November 2017.

Parliament's resolution welcomes the intention to simplify and modernise the CAP, but emphasises that EU legislators should maintain the essential relationship with farmers and citizens, with no possibility of renationalising the CAP. To better target the implementation of the CAP to the different realities of EU agriculture, subsidiarity should be granted to Member States in the context of a common set of EU rules, objectives, indicators and checks. This would guarantee a level playing field for farmers, and respect for the rules and principles of the single market.

To reduce the administrative burden related to the financial management of the CAP, the Commission plans a less prescriptive approach, with fewer detailed requirements at EU level in terms of controls, penalties and audit arrangements. In this respect, Parliament considers it necessary to set the general common objectives, basic standards, measures and financial allocations following the co-decision procedure. As for the controls, it stresses the importance of basic uniform criteria in the new performance-based evaluation approach and of the Commission's financial and performance control and audits, in guaranteeing that functions are performed to the same high standards and in accordance with the same criteria across the EU. Lastly, Parliament supports the collection of information through new technologies, rather than farmers' data submissions, to cut red tape, and stresses the risk of gold-plating with the introduction of unnecessary national and regional rules.

Council starting position

On 19 March 2018, following the debate at the Agriculture and Fisheries Council, the Bulgarian Presidency published the Council's conclusions on the Commission communication on the future of food and farming, supported by 23 Member States (all but Estonia, Latvia, Lithuania, Poland and Slovakia). Overall, these conclusions support the main objectives for the future CAP and endorse the view that Member States should enjoy more subsidiarity and flexibility.

Concerning CAP financial management, the Council's conclusions highlight the potential risk of policy fragmentation, to be avoided through the adoption of basic common rules at EU level. Simplification and reduction of the administrative burden should be reflected both in the definition of the CAP strategic plans and in secondary legislation. The CAP indicators should be simple, realistic, easily quantifiable, controllable and applicable to local realities. Audit and control systems should be based on the principles of proportionality, simplification and single audit, focusing on achieving policy results. A reduced number of controls should be based on risk analysis, using new technology, including satellite images.

Preparation of the proposal

The current CAP is the result of several reforms that have incrementally updated one of the oldest and most iconic EU policies, to address new challenges and reply to societal demands. The most recent major reform covers the 2014-2020 period. In light of the preparation of a new legislative framework, the Commission began a reflection on the future CAP, with a number of initiatives beginning in early 2017.

A public online consultation on the modernisation and simplification of the CAP took place between February and May 2017, with thousands of responses from citizens and stakeholders. Following the consultation and the analysis of available evidence on the CAP's performance, the Commission published its communication on the future of food and farming on 29 November 2017. Although the communication is rather vague operationally, it paves the way for the future reform and outlines its priorities. At the core of the communication is the new delivery model that aims to simplify CAP governance with more subsidiarity to rebalance responsibilities between the EU and its Member States, and a shift of the policy focus from compliance to performance. Member States would formulate strategic plans in order to attain objectives and targets decided jointly at EU level; results would be evaluated based more on the performance of the policy than on compliance with prescriptive rules.

In 2018, an appraisal of the communication was prepared for the Parliament and an EPRS briefing provided an overview of the above initiatives and of stakeholders' reactions and views on the proposals that have set the scene for the CAP reform post-2020.

The Commission's communication was followed by the impact assessment of alternative scenarios for the evolution of the CAP. Published together with the legislative proposals, the impact assessment includes reflections on cross-cutting issues that are strictly related to the financial management of the CAP, such as the long-standing objective of simplification. A general perception of complexity in implementation and of excessive administrative burden is indeed mostly linked to the procedures for aid applications and controls, as well as with the greening scheme for sustainable farmland care.

According to the Commission, the new delivery model would achieve simplification by streamlining all CAP interventions under a single strategic planning approach; this would reduce, for example, the number of procedures and notifications due to the Commission. Moreover, the shift towards performance should provide for significant administrative burden reduction; for instance, the number of detailed prescriptive EU rules on compliance, checks and penalties would be drastically reduced. Fewer EU requirements would also change the Commission's audit role, with fewer administrative checks on compliance and fewer on-the-spot controls on farms. The uptake of new technologies, such as digitalisation and use of satellites, should further impact on administrative burden reduction. Finally, if it is argued that greater Member State subsidiarity and flexibility may increase the risk of gold-plating, the Commission considers that fewer EU rules will reduce Member States' fear of non-compliance, thereby reducing the need for establishing numerous national rules. Published in January 2019, the EPRS initial appraisal of the Commission's impact assessment concluded that it provides a balanced set of objectives and an extensive analysis of a broad range of options.

The changes the proposal would bring

Although the proposed new CAP horizontal regulation largely confirms the current framework, it introduces a number of changes to adapt the functioning of the funds and the system of controls and penalties to the new delivery model and simplify the entire financial governance of the CAP.

The proposal maintains two funds, the EAGF and the EAFRD, with the same scope in relation to the CAP two-pillar structure. It is proposed that a single agency per country deal with both EAGF and EAFRD expenditures, maintaining the possibility for Member States to establish one national agency, or one per region. Only minor changes are proposed to the provisions governing the national bodies, with the addition of a responsible authority at ministerial level per Member State.

A broader concept of agricultural reserve introduces the possibility of interventions in case of crises affecting agricultural production and distribution, with at least €400 million a year and the carry-over of unused amounts to the following financial years. New provisions on financial and budget disciplines aim to simplify rules and procedures.

Largely unchanged rules would apply to the reimbursement of EAGF and EAFRD payments. EAFRD provisions refer now to the CAP strategic plan instead of rural development plan; the no double funding provision currently in use for the EAFRD only, would be extended to the EAGF as well.

Other important changes stem from the proposed performance-based control system, where an annual performance report (covering both financial and performance aspects) would focus on outputs and results instead of compliance on granular EU rules. As a result, for example, Member States risk suspension of payments if the Commission's annual performance clearance uncovers a greater than 50 % divergence between expenditure and output. Moreover, the Commission may ask Member States to put plans in place to take remedial action in case of delayed or insufficient progress towards the CAP strategic plan targets, or in case of serious deficiencies in the functioning of their governance system. In brief, the whole performance clearance procedure would shift from beneficiary compliance to policy performance, with an annual performance clearance verifying the correspondence between expenditure and CAP strategic plan output.

In line with the EU Financial Regulation (see Regulation (EU) No 2018/1046, Article 127 on cross-reliance on audits), the introduction of the single audit approach should reduce Commission audits, especially for on-the-spot checks. Further simplification is sought, with Member States afforded more flexibility as regards rules on controls and penalties, although they need to ensure systematic checks that take the risk of error into account. The IACS maintains its main features, with the noteworthy introduction of technological updates, namely a geospatial and animal-based application system, an area monitoring system, and data maintenance and sharing with a broader scope than was the case for the previous database. Simpler rules are envisaged for control and administrative penalty systems to be set up by Member States in relation to conditionality (the new term for cross-compliance).

Finally, some parts of the current CAP horizontal regulation have moved to the proposed CAP strategic plan or CMO regulations (provisions on the farm advisory system, cross-compliance and monitoring and evaluation, and provisions on controls and penalties related to agricultural market policy, respectively). An EP briefing note provides a detailed analysis of the CAP reform package, with explanatory comments and a comparison of proposed provisions to current CAP regulations.

Advisory committees

Both the European Economic and Social Committee (EESC) and the European Committee of the Regions (CoR) had already adopted opinions on the future CAP in the course of 2017. As regards CAP financial management, the EESC opinion on the CAP legislative proposals adopted on 17 October 2018 (rapporteur John Bryan, Diversity Europe – Group III, Ireland) emphasised the role of simplification in a reshaped CAP, with the use of modern technology and changes to the inspection and penalty system to reduce administrative burden while maintaining full and adequate controls. It raises concerns over a contradiction between advocating simplification and putting forward proposals that 'will render the policy more complex and bureaucratic to implement at both Member State and farm level'. Moreover, the EESC proposes a crisis reserve financed outside the CAP and increased amounts for advance payments.

Besides policy recommendations on the functioning of the future CAP, the CoR opinion on the reform of the CAP, adopted on 5 December 2018 (rapporteur Guillaume Cros, PES, France), put forward five amendments to the proposal for a CAP horizontal regulation, aiming to maintain and strengthen EU regions' role in the management and implementation of the CAP, preserve the commonality of the policy through common quantified objectives and targets, safeguard certain aspects related to direct payments in small islands and social rights of farm employees, and set the automatic decommitment of rural development budget in the third year (instead of the second) following that of the budget commitment.

European Court of Auditors

On 25 October 2018, the EU auditing body issued its opinion on the proposed financial and monitoring framework for the future CAP. In the Court's view, the proposal could help to ensure consistency between the different CAP measures, as it brings within one national CAP strategic plan measures currently spread between two funds. However, auditors deem the proposed rules not to give enough weight to the fact that implementation depends on the beneficiaries' compliance with the commitments set out in the CAP strategic plans. Moreover, proposed rules on verification of regularity and legality would weaken the Commission's capacity to supervise the implementation of the EU budget, especially for payments made within Member States, with less reporting and assurance obligations for national authorities.

National parliaments

The proposal for a regulation was submitted to national parliaments for reasoned opinions on the ground of subsidiarity, with a deadline of 24 September 2018. The majority of Member States have considered the proposal and some have sent comments, in most cases relating to the entire CAP reform proposal and therefore mostly focused on budgetary issues and overall policy design.

Stakeholder views[1]

Any proposed CAP reform generates a wide range of opinions, because of the numerous and diverse concerns it involves besides agricultural production: environment, food safety, farm economics, not to forget animal welfare and the rural economy, to name but a few. Many stakeholders replied to the Commission's 2017 public consultation and a number of them also reacted to the publication of the legislative proposals. However, besides more or less general statements on the strong need for simplification, in most cases their comments are not strictly related to the financial rules, but to the overall CAP reform, its budget or specific issues of interest to the stakeholders.

On 18 September 2018, Copa and Cogeca, the union of EU farmers and their cooperatives, published their position on the post-2020 CAP, which clearly underlines some facts on financial governance. The document calls for more simplification, as the proposals are deemed insufficiently ambitious to lessen the burden for farmers, and stresses the need to safeguard the commonality of the policy. On 12 April 2019, following the adoption of the report in the Parliament's Committee on Agriculture and Rural Development (see next section), farmers' representatives welcomed adopted amendments that would help to reduce the administrative burden, while preserving the communality of the policy, and appreciated the proposals for a properly financed and well-functioning crisis reserve. The think-tank on rural economies, Farm Europe also greeted a renewed, well-funded and more reactive crisis reserve, as a game-changer tool that would help to cope with major crises and develop better risk-management tools.

Legislative process

Eighth parliamentary term, 2014-2019

Following the presentation of the legislative proposals for the 2021-2027 CAP, members of the Parliament's Committee on Agriculture and Rural Development (AGRI) exchanged views on the proposal and discussed it with Commission representatives and experts on several occasions. These discussions provided valuable input to the preparatory work on the legislative process and identified issues that require further attention, such as the risk of renationalisation of the CAP, lack of real simplification and risk of a heavy administrative burden, in a context of reduced EU farm budgets.

On 8 April 2019, AGRI members voted the committee report (votes for: 28; against: 7; abstention: 2) including 205 amendments that put forward key elements, such as:

- *Definitions* – link to the Common Provision Regulation and more cases of *force majeure* and exceptional circumstances (articles 2 and 3);
- *Governance* – clarification of roles and responsibilities of national authorities, including a regional dimension and appointment of paying agencies, and request to the Commission to present to the Parliament a list of appointed certification bodies (Title II, chapter II);
- *Budget* – a reserve established in the CAP budget of at least €400 million a year, with the potential for increases up to a ceiling of €1.5 billion, to provide support for market management or stabilisation and in the case of crises affecting agricultural production or distribution, including support to income stabilisation tools under the rural development interventions (article 14); the financial discipline (i.e. a reduction of direct payments to be granted to a farmer in a given year at a rate set annually in the context of the budgetary procedures) activated only above the first €2 000 of direct payments (article 15);
- *Payments* – new arrangements for rural development interventions, such as pre-financing amounts split over two years and the role of regional intervention programmes (put forward by article 100a of the AGRI report on the proposed CAP strategic plan regulation) in interim payments, and a longer period to activate decommitments (articles 29-32);
- *Performance monitoring* – bi-annual performance reporting on the implementation of the CAP strategic plan to the Commission (article 8); a precise target to reach (at least 25 % for one or more result indicators as set out in the national CAP strategic plan), but more room for the Member States to justify shortfalls and execute an action plan before any suspension of payments is initiated (article 39);
- *Clearance of accounts* – reinforcement of the checks carried out by the Commission, which should also publish multiannual reports on irregularities and communicate them to the Parliament (articles 47 and 48); an annual clearance (articles 51 and 52) and reintroduction of rules for Member States on recoveries for non-compliance (article 53a);
- *Controls* – control system to be described in the CAP strategic plan (possibly with inclusion of early warning mechanisms), more rules on penalties for non-compliance, but the option to allow beneficiaries to correct certain errors (article 57 and 57a); a control sample for yearly on-the-spot checks that should cover at least 5 % of all direct payments and rural-development measures beneficiaries, with the percentage adjusted according to non-compliance and error rates (article 70);
- *Conditionality* – renamed as conditionality for sustainable development (Title IV, chapter IV); the establishment of an early-warning system, a control sample covering at least 1 % of beneficiaries based on both risk analysis and a random component, more cases of non-compliance for which no administrative penalty should be imposed, the provision of specific training on conditionality under the farm advisory system, and tougher penalties for reoccurring violations (articles 84-86);
- *Commission empowerments* – revision throughout the text to rebalance powers between institutions.

Ninth parliamentary term, 2019-2024

As there was no plenary vote on the report during the 2014-2019 parliamentary term, the Conference of Presidents of the newly elected Parliament decided to continue work on the file, along with other 'unfinished business' from the previous term. Parliamentary work on the file continued on issues such as the need to sustain CAP funding levels, better functioning of the crisis reserve, and the importance of maintaining a unique EU framework of rules on CAP financial management. The rapporteur Ulrike Müller (Renew Europe, Germany) coordinated the work with political groups with a view to reaching compromises on new amendments.

In the meantime, significant new elements impacted the CAP legislative process:

- the 2021-2027 EU budget negotiations (already mentioned earlier in this briefing);
- the presentation of the EU Green Deal in December 2019, and of the Farm to Fork and Biodiversity strategies in May 2020, which will contribute to shaping future EU farm policy;
- the proposal on CAP transitional measures in October 2019, to put in place a two-year transition period, covering 2021 and 2022, before the entry into force of the future CAP framework (and which was adopted on 23 December 2020).

At its October II 2020 plenary session, Parliament adopted its position on the future CAP, paving the way to start negotiations with the Council. The plenary debate involved a general discussion on the three CAP legislative files, votes on numerous amendments tabled by political groups and a final vote on each file. Parliament's position on the proposal on CAP financial management was approved by 434 votes in favour, with 185 against and 69 abstentions. It includes issues such as rules for strengthening the crisis reserve and clarifications on the governance structure already agreed in AGRI, and provisions to smooth the passage from a compliance to a performance-based system, with an EU complaints mechanism to support beneficiaries in case of problems with national authorities and the maintenance of some Commission control on the eligibility and compliance of payments. Such dilution of the performance-based approach was part of a compromise package agreed among the main political groups ahead of the plenary vote and covering a number of CAP reform elements.

In the Council, the CAP legislative proposals were the subject of several meetings of both the EU Agriculture Ministers and the Special Committee on Agriculture (SCA) as of 2018. Ministers conveyed positive views on various elements of the proposals, such as subsidiarity and simplification, including the use of new technologies in agriculture and the shift from a compliance- to a performance-based policy. They called for additional efforts to further simplify the CAP and ensure greater subsidiarity, and avoid any additional administrative burden and costs associated with the new delivery model. Several ministers noted that the political agreement on the 2021-2027 EU budget was an essential element to agree on before deciding on the future CAP. Moreover, some delegations raised issues such as the need to consider the constitutional framework establishing regional competences in the agricultural sector in certain Member States. Other key aspects of the CAP financial framework were also at the core of discussions, such as the threshold for financial discipline, the functioning of the crisis reserve, performance reporting, and the system of control and penalties. On 21 October 2020, Council agreed its general approach on the three proposals of the CAP reform package, following two and a half years of negotiations conducted under five presidencies. This represents its initial negotiating position for negotiating with Parliament. Council's proposed amendments differ from Parliament's ones on such issues as the maintenance of the performance-based approach and provisions on agricultural reserve envisaging a €450 million reserve at the beginning of the year and a possible refill using EAGF (or the financial discipline mechanism activated only above the first €2 000 of direct payments, as in Parliament's proposal).

Following the first round of negotiations held on 10 November 2020, the rapporteur informed AGRI members that negotiators from Parliament, Council, and Commission had agreed to conduct negotiations in eight blocks, each covering a specific element of the future CAP horizontal regulation (such as governance, financial aspects, performance reporting, new delivery model, checks and transparency rules, reserve crisis, conditionality, and any further measures). Moreover, she expressed her belief that good progress could be made towards reaching a consensus, with only a few points dividing the respective positions, such as the Council's concerns over additional tasks imposed on Member States and Parliament's desire to have a say on implementing legislation.

Interinstitutional negotiations generally proceeded well throughout the many technical and political meetings held in the following months. In late June 2021, negotiators reached an agreement on the three proposals of the CAP reform package. This agreement was endorsed by EU agriculture ministers on 28 June 2021 and by AGRI members on 9 September 2021. The agreement on the CAP horizontal regulation was voted by AGRI members by 39 votes in favour to 7, with 2 abstentions.

The provisional deal amended the original Commission proposal on the following key issues:

- the agricultural reserve established to provide additional support to stabilise agricultural markets and to respond promptly in the case of crises affecting the agricultural production or distribution (as set out in Articles 8 to 21 and 219 to 221 of Regulation (EU) No 1308/2013) would amount to at least €450 million a year for the 2023-2027 period, with the possibility to adjust it to a higher sum during the budgetary procedure. The unused amount of the reserve available at the end of the year (including at the end of 2022) would be carried over to the next financial year until 2027;
- financial discipline (which may be used to fund the agricultural reserve as a last resort in case of insufficient funds) would apply only above the threshold of €2 000 of direct payments, with no changes to this existing CAP rule;
- an overall reshuffling of the articles concerning the governance system, aimed at clarifying the role and tasks of the national bodies, including rules on audit and controls;
- the Commission would assess the need for audits in a Member State and may organise on-the-spot checks, including on certain expenditures, on the implementation of the CAP strategic plan, and on the implementation of the action plan in the event of identified serious deficiencies in the governance system;
- more precisions concerning the checks on beneficiaries of CAP funds, including the option for Member States to set up a simplified control system for small farmers, who may also be excluded from on-the-spot checks if it can be demonstrated their non-compliance would not have significant consequences;
- any outstanding debts and sums unduly paid to a beneficiary of CAP funds would be deducted from future payments, in case of irregularities;
- while there could be no penalties for non-compliance in relation to conditionality in case of no or only insignificant consequences, a higher reduction than the standard 3 % would be applied in case of serious consequences or direct risk to public or animal health. This reduction would be 10 % in case of reoccurrence of the same non-compliance within three consecutive years, and 15 % in case of intentional non-compliance;
- a new chapter introduces rules on the control system and penalties in relation to social conditionality, where a clear separation of responsibilities should be ensured between the authorities or bodies competent for the enforcement of employment and social legislation and labour standards on the one hand, and the paying agencies on the other. Penalties would be determined in line with the provisions concerning non-compliance in relation to conditionality.

Other significant elements amended by the provisional agreement include the following:

- new definitions added to clarify, for example, the concepts of serious deficiencies in the proper functioning of the governance systems (i.e. systemic weaknesses taking into account recurrence, gravity and compromising effect) and of an 'action plan' containing the necessary remedial actions and the relevant timetable for its implementation in the event that serious deficiencies are identified;
- the death of the beneficiary and the long-term professional incapacity of the beneficiary included as additional cases of *force majeure* and exceptional circumstances;
- raising public awareness about the CAP's interaction with the climate, environment and animal welfare, as well as about the challenges faced in agriculture and the food sector would be among the objectives of information campaigns on the CAP, aiming to inform farmers and other parties active in rural areas and to promote a more sustainable Union model of agriculture, as well as to help citizens better understand it;
- the Commission would make available to the Member States a data-mining tool to assess risks presented by projects, beneficiaries, contractors and contracts. A Commission assessment of the tool would be due by 2025 in view of its generalised use;
- more precisions added to the description of the elements of the integrated administration and control system (IACS);
- simplification of the rules on the scrutiny by Member States of the commercial documents of those entities directly or indirectly connected with EAGF transactions.

Parliament voted on the three proposals of the CAP reform package during its November II plenary session. On 23 November, the provisional agreement on the CAP horizontal regulation was approved by a large majority of Members (votes: 485 in favour, 142 against, and 61 abstentions). An even larger majority (over 630 votes in favour) approved the statements annexed to the regulation.

Following Parliament's plenary vote, the adoption of the three CAP regulations by the Council took place first within the SCA on 29 November and then with the formal Council adoption without debate on 2 December. The signature by the presidents of the Parliament and Council and the publication of the three regulations in the Official Journal of the EU on 6 December paved the way to the adoption of the most urgent secondary legislation that the EU Member States need in order to finalise their national CAP strategic plans. The draft plans are due by 31 December 2021 and would then have to be approved by the Commission in the course of 2022. The post 2022 CAP horizontal regulation, now Regulation (EU) 2021/2116, will apply from 1 January 2023.

EP SUPPORTING ANALYSIS

Massot Marti, A., Negre, F., Towards the Common Agricultural Policy beyond 2020: comparing the reform package with the current regulations, European Parliament, September 2018.

The CAP beyond 2020: appraisal of the EC legislative proposals, Policy Department for Structural and Cohesion Policies, European Parliament, October 2018.

McEldowney, J., Kelly, P., CAP strategic planning: Operational perspectives, EPRS, European Parliament, April 2019.

Visualising the proposed European Union 2021 2027 multiannual financial framework and the recovery instrument (Next Generation EU), EPRS infographic, November 2020.

Research for the AGRI Committee - The Green Deal and the CAP: policy implications to adapt farming practices and to preserve the EU's natural resources, European Parliament, November 2020.

McEldowney, J., Rossi, R., CAP strategic plans: Issues and expectations for EU agriculture, EPRS, European Parliament, May 2021.

OTHER SOURCES

Common agricultural policy (CAP): financing, management and monitoring 2021–2027, European Parliament, Legislative Observatory (OEIL).

ENDNOTE

1 This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.

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