FIRST PILLAR OF THE COMMON AGRICULTURAL POLICY (CAP): II — DIRECT PAYMENTS TO FARMERS

The 2003 reform and the 2009 Health Check decoupled most direct aid and transferred it to the new single payment scheme (SPS) or the single area payment scheme for new Member States. Regulation (EU) No 1307/2013, defines the direct payments system with effect from 1 January 2015.

LEGAL BASIS

Articles 38 to 44 of the Treaty on the Functioning of the European Union (TFEU); Regulation (EU) No 1306/2013 (OJ L 347, 20.12.2013, p. 549) and Regulation (UE) No 1307/2013 (OJ L 347, 20.12.2013, p. 608), as amended by Regulation (EU) 2017/2393 (OJ L 350, 29.12.2017, p. 15) (the 'Omnibus' Regulation backing the Commission's proposals for the mid-term review of the multiannual financial framework 2014/2020).

OBJECTIVES

The CAP for the 2014-2020 period maintains the existence of two pillars but tightens up the links between them, thus offering a more holistic and integrated approach to policy support. Specifically, it introduces a new architecture for direct payments that is better targeted, fairer and greener. Regulation (EU) No 1307/2013 provides a single legal basis and lays down comprehensive rules for direct payments to farmers.

SUBSTANCE OF REGULATION (EU) NO 1307/2013

A. Overview

The direct support arrangements mark a shift from 'decoupling' to 'targeting'. The system based on decoupling agricultural aid from production and providing generic income support that was introduced in 2003 has been replaced by one in which each component is linked to specific objectives. Single farm payments have been replaced by a system of multi-purpose payments, with seven components: 1) a 'basic payment' per hectare, the level of which is to be harmonised according to national or regional economic or administrative criteria and subject to an 'internal' convergence process; 2) a 'greening' component, as additional support to offset the cost of providing environmental public goods that are not remunerated by the market; 3) an additional payment for young farmers; 4) a 'redistributive payment' whereby farmers may be granted additional support for the first hectares of farmland; 5) additional income support in areas with natural constraints; 6) coupled support for production, granted in respect of certain areas or types of farming for economic and/or social reasons; 7) an voluntary simplified system for 'small farmers', offering payments of up to EUR 1 250. The first three components are compulsory for Member States while the last four are voluntary. Member States must use 30% of their national direct-payment allocations to fund the greening components. The remaining 70% is used to fund the 'basic payments', after deduction of any amounts earmarked for the national reserve for entitlements (mandatory, up to 3% of national allocations), and for additional redistributive payments (up to 30%), payments for young farmers (up to 2%) or for less favoured areas (up to 5%), or payments coupled to production (up to 15%). Only active farmers (defined with reference to a 'negative list' to be drawn up by each Member State) will be eligible for the new payments per hectare. These payments will also be subject until 2019 to a process of 'external' partial convergence among the Member States, although this will not eliminate all the variations (caused by the support allocated to and areas deemed eligible in each Member State in 2015) across the EU as a whole.

B. Key elements

1. Basic payment scheme (BPS)/Single area payment scheme (SAPS) (compulsory for Member States)

Direct payments under the new basic payment scheme account for around 70% of Member States' national funding allocation after deduction of the amounts allocated to young farmers or other voluntary payments: less-favoured area top-ups, the small farmers scheme, redistributive payments and 'coupled' payments. For 12 Member States, the end date for the simpler, flat-rate, single area payments scheme will be deferred until 2020. With regard to 'internal convergence', those Member States that, up to 2013, maintained allocations based on historic references must move towards more uniform levels of payment per hectare. To do so they are offered a choice of options: they may take a national or regional approach (based on administrative or agronomic criteria) enabling them to introduce a regional/national flat-rate payment by 2019, or ensure that those farms receiving less than 90% of the regional/national average rate see a gradual increase in payments, with the additional guarantee that every farmer receives a minimum payment equivalent to 60% of the national/regional average by 2019. The amounts available to farmers receiving more than the regional/national average are adjusted proportionally, with an option for Member States to limit any support 'losses' to 30%.

2. Schemes for the redistribution of basic payments (voluntary)

Member States have the right to use a redistributive payment for the first hectares whereby they can take up to 30% of the national allocation and redistribute it to farmers on their first 30 hectares (or up to the average farm size if greater than 30 hectares). A further option is to apply a maximum payment per hectare. Member States making use of the redistributive scheme may be exempted from mandatory capping of basic payments above EUR 150 000 (a minimum of 5%).

3. Young farmers scheme (mandatory for Member States)

To encourage generational renewal, the basic payment awarded to young farmers, newcomers under 40 years of age established in the previous five years, is increased by 25% for the first five years. Up to 2% of the national funding allocation can be used to finance this scheme, which is mandatory for Member States. This payment comes on top of other measures young farmers can benefit from under rural development programmes.

4. Greening (mandatory for Member States, with flexible application)

Each farm will receive, in addition to the basic payment or the single area payment, an additional payment per hectare for using climate- and environment-friendly farming practices. The Member States are required to use 30% of their national funding allocations for this greening payment. There are three measures, namely:

— Crop diversification: the farmer must cultivate at least two different crops if he has more than 10 hectares of arable land; if he has more than 30 hectares, he must cultivate at least three crops; the main crop may cover no more than 75% of the arable land, and the two main crops no more than 95%;

— Maintaining existing permanent grassland;

— Maintaining an ‘ecological focus area’ of at least 5% of the arable area of the holding on farms with more than 15 hectares of arable land (excluding permanent grassland and permanent crops): edges of fields, hedges, trees, fallow land, landscape features, biotopes, buffer strips, afforested areas or nitrogen-fixing crops.

There will be extremely severe penalties for failing to meet greening requirements. Anyone who does so once the transitional period is over could forfeit up to 125% of greening payments. To avoid penalising farmers who are already addressing environmental and sustainability issues, the regulation establishes a ‘greening equivalency’ system under which environmentally beneficial practices already in place are deemed to meet these basic requirements. For example, no additional requirements are imposed on organic producers, as the practices they use have been shown to provide clear ecological benefits. For others, agri-environmental schemes may incorporate measures that are considered equivalent. The new regulation contains a list of such equivalent measures. To avoid double funding of such measures, payments under rural development programmes must take account of the greening requirements.

5. Coupled payments (voluntary for Member States)

To remedy the potentially adverse effects of internal convergence for particularly sensitive sectors or areas, Member States have the option of making ‘coupled’ payments, i.e. payments linked to specific products. Such payments must account for no more than 8% of the national funding allocation in Member States that currently provide coupled support, and no more than 13% if the current level of coupled support is higher than 5%. The Commission may approve a higher rate where justified. In addition, ‘coupled’ support (no more than 2%) may be provided for protein crops.

6. Areas with natural constraints/less favoured areas (ANCs/LFAs) (voluntary payment)

Member States (or regions) may grant an additional payment of up to 5% of the national funding allocation for areas classified as being subject to natural constraints.

7. Active farmers (mandatory for Member States, with flexible application)

With a view to solving the problem of 'sofa farmers' and to removing a number of legal loopholes which have allowed companies whose primary business is not farming to claim direct payments, the reform has tightened up the rules defining active farmers. Member States are required to abide by a new negative list of business activities in respect of which direct payments may not be made unless the individual businesses concerned can show that they are genuinely engaged in farming (one can maintain that the 'Omnibus' Regulation has relaxed the criteria concerning proof thereof [Regulation (UE) 2017/2393, OJ L 350, 29.12.2017, p. 15]) (3.2.9). Member States are able to add further business activities to the negative list.

8. Eligible hectares (with flexible application)

The rules establish 2015 as the new reference year for land area declarations. Member States that may expect to see a large increase in the eligible area declared are allowed to restrict the number of payment entitlements to be allocated in 2015 to either 135% or 145% of the number of hectares declared in 2009.

9. Small farmers scheme (voluntary)

Under the new CAP, Member States may adopt a simplified scheme benefiting small farmers if an annual payment of up to EUR 1 250 is made, irrespective of farm size. Participants are subject to less stringent cross-compliance requirements and do not have to meet greening requirements. The total cost of the small farmers' scheme may not account for more than 10% of the national funding allocation, except when Member States decide to ensure that small farmers receive what they would have been paid without the scheme.

10. Cross-compliance (mandatory)

The provisions on cross-compliance have been simplified by making direct payments subject to compliance by farmers with: a) standards laid down by the Member State on environmental and agronomic conditions with a view to limiting soil erosion, maintaining soil structure and organic matter levels and ensuring minimum standards of upkeep; b) EU rules on public health, animal health, the environment and animal welfare. If a farmer does not abide by the cross-compliance rules, his direct payments will be reduced or stopped. The Regulation confirms that the Water Framework Directive and the Sustainable Use of Pesticides Directive will be incorporated into the cross-compliance system once it has been shown that they are being properly applied in all Member States and once farmers' obligations in this area have been clearly established.

11. Budgetary and financial discipline mechanism (mandatory)

Budgetary discipline arrangements have been introduced to keep expenditure on the first pillar of the CAP below the annual budget ceilings set under the multiannual financial framework (1.4.3). An adjustment to the direct payments will be proposed when projections indicate that the total forecast expenditure will be exceeded in a given financial year. Any reduction will not apply to the first EUR 2 000 paid to each farmer. The direct payments allocated to farmers can also be reduced in each financial year in order to free up funding for the new 'crisis reserve' (up to a ceiling of EUR 400 million) (3.2.4).

12. The Integrated Administration and Control System (mandatory)

The Integrated Administration and Control System (IACS) has also been confirmed and reinforced. It consists of at least: a computerised database, a system for the identification of agricultural parcels, a system for the identification and registration of direct payment entitlements, an integrated control system and a system for identifying each farmer who submits an aid application.

ROLE OF THE EUROPEAN PARLIAMENT

On 13 March 2013 Parliament adopted a set of resolutions concerning the post-2013 CAP legislative proposals [P7_TA(2013)0084 to P7_TA(2013)0087, OJ C 36, 29.1.2016, p. 240 to 704]. These formed the basis for negotiations with the Council. Following a number of trilogue meetings, political agreement was reached on 26 June 2013. Conciliation between Parliament and the Council was necessary, however, on various aspects of the budgetary arrangements for direct payments and rural development. Once these matters had been settled, Parliament – on 20 November 2013, immediately after the adoption of the multiannual financial framework for 2014-2020 – adopted a set of resolutions [P7_TA(2013)0490 to P7_TA(2013)0494, OJ C 436, 24.11.2016, p. 270 to 280] reiterating its favourable view of the new CAP. In the context of the mid-term review of the multiannual financial framework 2014-2020, the amendments tabled by the Parliament improved the rules for greening payments and payments to young farmers. An agreement with the Council was reached in October 2017 and the text published in December 2017 [Regulation (EU) 2017/2393, OJ L 350, 29.12.2017, p. 15].

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