

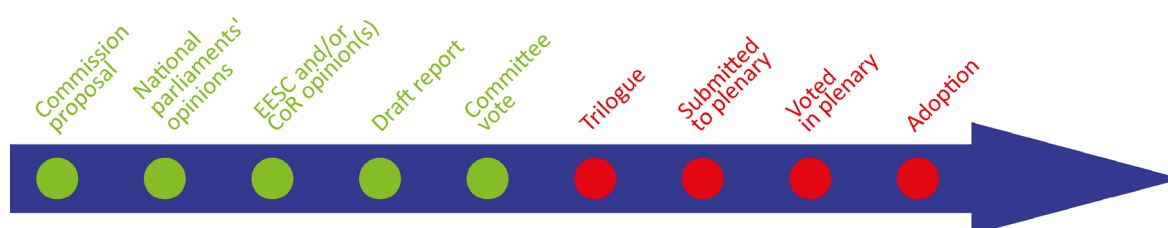
# Transitional provisions for the CAP post 2020

## OVERVIEW

On 31 October 2019, the European Commission adopted a legislative package aimed at ensuring the continuation of the current common agricultural policy (CAP) until the legislation on the post-2020 CAP is in force. The package includes a proposal for a CAP transitional regulation setting out a number of adjustments to current CAP regulations, concerning their applicability beyond 2020 with new financial allocations. This proposal introduces transitional provisions and amendments that are necessary to ensure the continuity of the CAP through a one-year transitional period ending on 31 December 2021 and to smooth the passage to the new policy framework envisaged by the post-2020 CAP proposals. It concerns all the basic acts which regulate how the CAP now works.

**Proposal for a regulation of the European Parliament and of the Council laying down certain transitional provisions for the support by the European Agricultural Fund for Rural Development (EAFRD) and by the European Agricultural Guarantee Fund (EAGF) in the year 2021 and amending Regulations (EU) No 228/2013, (EU) No 229/2013 and (EU) No 1308/2013 as regards resources and their distribution in respect of the year 2021 and amending Regulations (EU) No 1305/2013, (EU) No 1306/2013 and (EU) No 1307/2013 as regards their resources and application in the year 2021**

<i>Committee responsible:</i>	Agriculture and Rural Development	COM(2019) 581 31.10.2019
<i>Rapporteur:</i>	Elsi Katainen (Renew Europe, Finland)	2019/0254(COD)
<i>Shadow rapporteurs:</i>	Álvaro Amaro (EPP, Portugal) Clara Aguilera (S&D, Spain) Bronis Ropė (Greens/EFA, Lithuania) Ivan David (ID, Czechia) Mazaly Aguilar (ECR, Spain) Petros Kokkalis (GUE/NGL, Greece)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Next steps expected:</i>	Continuing trilogue negotiations	



## Introduction

On 31 October 2019, the European Commission adopted a legislative proposal to ensure the continuation of the current rules of the CAP through a one-year transitional period ending on 31 December 2021. The CAP legislation in force runs until the end of 2020, when new legislation on EU farm policy should take its place for the 2021-2027 period. However, delays in the legislative processes for setting up the EU budget and the CAP rules for 2021-2027 require the adaptation of some of the current CAP provisions. This aims to smooth both the continuity of CAP support to EU farmers and rural areas, and the transition from the present to the future CAP framework.

## Context

On 1 June 2018, the Commission adopted three legislative proposals which set out a legislative framework for the 2021-2027 CAP:

- A proposal for a [CAP strategic plan regulation](#) (covering direct payments to farmers and support for rural development and for agricultural sectoral programmes);
- A proposal for a [CAP horizontal regulation](#) (covering the governance and financing of agricultural expenditures, the clearance of accounts and the control system);
- A proposal for an [amending regulation](#) (covering the common organisation of the markets in agricultural products, quality schemes for agri-food products and specific measures for the outermost regions and smaller Aegean islands).

According to these proposals, the EU Member States should start implementing their strategic plans as from 1 January 2021, after the presentation of the plans to the Commission in early 2020 and their approval by the Commission in the course of 2020. However, neither the basic acts, nor the ensuing delegated and implementing acts had been adopted to provide the EU Member States with the legal basis to define their plans ahead of the 2020 deadline. Moreover, the legislative process for the three proposals has proceeded in parallel with that for the [proposal](#) for the overall 2021-2027 EU budget, in which the CAP is [one of the main](#) spending programmes. Delays in both negotiating processes have led the Commission to put forward two proposals on transitional rules:

- A proposal for a [flexibility regulation](#) extending certain technical provisions to 2021, now in force as Regulation (EU) [2020/127](#).<sup>1</sup>
- A proposal for a [transitional regulation](#) setting out a number of amendments to current CAP regulations, as regards their resources and application in the year 2021.

## Existing situation

[Article 38](#) of the Treaty on the Functioning of the European Union (TFEU) establishes that 'the Union shall define and implement a common agriculture and fisheries policy'. The following regulations (complemented by a number of delegated and implementing acts) set out the different elements of EU agricultural policy for the years 2014-2020:

- Rules for direct payments to farmers (Regulation (EU) No [1307/2013](#));
- A common organisation of the markets in agricultural products (Regulation (EU) No [1308/2013](#));
- Support for rural development (Regulation (EU) No [1305/2013](#));
- Financing, management and monitoring of the CAP (Regulation (EU) No [1306/2013](#));
- Specific measures for agriculture in the outermost regions (Regulation (EU) No [228/2013](#)) and in favour of the smaller Aegean islands (Regulation (EU) No [229/2013](#)).

Most of the provisions in these regulations are not formally limited in time and, therefore, will continue to apply until they are repealed. However, they do not refer to the amount of EU financial support for the years after 2020 and so in practice they become inapplicable as of 2021.

## Parliament's starting position

Parliament had already brought up the need for transitional rules to bridge from one policy period to the next prior to the Commission's proposals for the post-2020 CAP. Parliament's [resolution](#) of 30 May 2018 on the future of food and farming called on the Commission to introduce a transitional regulation which, in the event of a delay in the adoption of the future CAP, would ensure continuity of support to farmers, and enough time for Member States to put into operation the new policy.

During the discussions in the Parliament's Committee on Agriculture and Rural Development (AGRI) on the post-2020 CAP, the perceived need for such transitional provisions became stronger with the mounting delays in the negotiating processes on the future EU budget and agricultural policy, in both the European Parliament and Council. Explaining her work on the [AGRI report](#) on the proposal for a CAP horizontal regulation, rapporteur Ulrike Müller (Renew, Germany) recalled that the entry into force of the current CAP necessitated two years of transitional measures. Given the significant changes envisaged with the proposed new CAP delivery model, her report indicated that a comprehensive legal act to govern the transition 'will have to be adopted in due time to give Member States the time to set up the new systems'. This position is echoed in the [opinion](#) of the Parliament's Committee on Regional Development (REGI) on the same proposal: 'the new CAP delivery model cannot be applied in 2021, rather in 2023 and, therefore a longer transitional period between the current CAP regulations and the future ones is needed'.

## Preparation of the proposal

The Commission's [explanatory](#) memorandum on the proposal for a CAP transitional regulation explains that this proposal addresses legal needs that stem from the state of play of the discussions on the post-2020 CAP. It would introduce transitional adjustments and amendments that are necessary due to the changes that come with the CAP beyond 2020 and to ensure the continuity of the CAP until the new system is in place. In this context, it indicated that an impact assessment was not pertinent. On 29 January 2020, the Commission published its [2020 work programme](#). The proposal, together with the post-2020 CAP reform proposals, was included in the 'priority pending proposals' (Annex III), under the Commission's priority 1 - 'A European Green Deal'.

## The changes the proposal would bring

The [proposal for a transitional regulation](#) touches upon several provisions of the current CAP legislative framework. The Commission proposes that it should be adopted before summer 2020. In line with this, the text suggests 1 August 2020 as the deadline for a number of EU Member State notifications to the Commission for the operation of CAP support in 2021.

### Direct payments

Article 5 of the proposed transitional regulation extends to 2021 the legality and regularity of payment entitlements allocated to farmers before 1 January 2020, according to which farmers receive EU support in the form of direct payments.

Article 10 amends Regulation (EU) No 1307/2013 so as to apply the following provisions in 2021:

- The rules on degressivity require EU Member States to reduce basic payments over €150 000 per farm by a minimum of 5 %.
- The transfer of amounts (i.e. the [flexibility between pillars](#)) from direct payments to rural development, at up to 15 % of the annual national ceiling for direct payments, or from rural development to direct payment, at up to 15 % (or 25 % in Bulgaria, Estonia, Spain, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Finland, and Sweden) of the amounts assigned to rural development. The Commission's proposal refers to post-2020 budgetary figures from its proposal for the 2021-2027 EU budget. These figures (to be updated with the final amounts resulting from the conclusion of the

negotiations on the future EU budget) would imply fewer funds earmarked for agricultural expenditure than in the past EU budget.<sup>2</sup>

- The deadline of 1 August 2020 for EU Member State notifications to the Commission as to the allocation of funds in compliance with their national ceilings.
- The option of applying [internal convergence](#) in the calculation of the value of the payment entitlements, to move towards a more uniform level of support per hectare.
- The single area payment scheme ([SAPS](#)) in the EU Member States already applying it.
- The optional [redistributive payment](#) to support farmers with smaller holdings.
- The fixed yields to be used for calculating crop-specific payments for cotton in Bulgaria, Greece, Spain, and Portugal.

## Rural development

Article 1 of the proposed transitional regulation introduces the possibility, for those Member States that risk running out of funds, to decide on an extension to 2021 of the period covered by 2014-2020 rural development programmes. Any such decisions would involve regional programmes, where they exist, and should result in amendments to the relevant rural development programmes. At least the overall level of 30 % of spending would be reserved for measures with environment and climate goals. For those EU Member States that do not decide to extend their rural development programmes, their 2021 allocations would be transferred to the subsequent years, 2022 to 2025.

Articles 2 and 3 of the proposed transitional regulation set out timetable and eligibility of expenditure to make operative the extension of rural development programmes to 2021. Article 4 offers the possibility for rural development funds to support multi-funded community-led local development (CLLD), as under the Commission's proposal on [common provisions](#) for the EU's cohesion policy for 2021-2027. Article 6 establishes rules and conditions for the carry-over of expenditure from previous programming periods and their integration into the CAP strategic plans for 2022-2027.

Article 8 amends Regulation (EU) No 1305/2013 in order to introduce the following provisions:

- A period from one to three years (and a maximum one-year further extension) for new commitments undertaken in 2021 for measures on agri-environment-climate, organic farming, and animal welfare.
- Leader local action groups expanded in scope to include CLLD tasks and support.
- A total amount of EU support for rural development in 2021 equal to €11.3 billion (without considering flexibility between pillars), in accordance with the proposed budget for the years 2021 to 2027.
- For rural development programmes extended to 2021, EU Member States' annual implementation reports and ex-post evaluation reports to be due by end 2025.

## Common organisation of agricultural markets (CMO)

Article 7 of the proposed transitional regulation modifies the timetable of certain sectoral aid schemes to smooth the transition towards their inclusion in the CAP strategic plans, as follows:

- For the olive oil and table olives sector, work programmes running from 1 April 2018 until 31 March 2021 would be extended until 31 December 2021.
- Producer organisations in the fruit and vegetables sector with programmes running beyond 2021 would have the choice either to modify those programmes to comply with the CAP strategic plan regulation, or to replace them with new programmes.
- Aid schemes (and certain rules on expenditure and payments) for the wine sector would continue until 15 October 2023, and for the apiculture sector until 31 July 2022.
- As from the date from which a CAP strategic plan has legal effect, payments made within the sectoral aid schemes should not exceed the respective financial allocation.

Article 11 amends Regulation (EU) No 1308/2013 as regards the maximum EU funding, as of 2020, for the following work programmes: olive oil and table olives sector for Greece, France, and Italy; hops sector for Germany; and wine sector for the various EU Member States concerned.

## Horizontal financial provisions

Article 9 of the proposed transitional regulation amends Regulation (EU) No 1306/2013 so as to prolong to 2021 the reserve for crises, to introduce necessary technical adaptations for rural development programmes extended to 2021, and to clarify certain aspects of the payment procedure for the rural development programmes (i.e. payment of the balance and decommitment).

## Outermost regions and smaller Aegean islands

Articles 12 and 13 of the proposed transitional regulation amend, respectively, Article 30 of Regulation (EU) No 228/2013 on specific measures for agriculture in the outermost regions, and Article 13 of Regulation (EU) No 229/2013 on specific measures for agriculture in the smaller Aegean islands. Both amendments modify the resources allocated each year to certain measures supported by the two regulations in the respective territories of concern.

## Stakeholder views<sup>3</sup>

In a press release of 5 November 2019, [Copa-Cogeca](#), the union of EU farmers and their cooperatives, recognised the need for a rapid decision on legislative provisions that would provide farmers with stability and financial continuity. However, it stressed that there should be no cuts to the CAP funds, nor decisions taken outside the CAP reform process during the transition period. Farmers' representatives underlined that the proposed transitional measures may result in a cut in EU support to farmers and rural areas, while the post-2020 CAP and EU budget are still under discussion. They stressed as well the need for the transition period to be long enough to allow the EU Member States to properly develop their CAP strategic plans, the European Commission to approve them, and the EU Member States to effectively implement them. This would imply that on the last day of the transition period, all the EU Member States would need to have operational CAP strategic plans.

A press release of 6 November 2019, issued by the European Council of Young Farmers ([CEJA](#)) following the publication of the CAP transitional provisions, called for stability both at farm level and in the CAP budget. CEJA welcomed the publication of the Commission's proposal setting up transitional rules, and called on EU legislators to speed up the process so that the transition towards the next CAP is appropriately provided for and the continuity of public support is guaranteed at its current level. CEJA expressed their concerns over the significant reductions announced for the post-2020 EU budget, with possible negative impacts on flagship schemes such as installation and investment support, which are crucial for young farmers.

During an [exchange of views](#) with representatives of national and regional [paying agencies](#) on the post-2020 CAP, organised by the AGRI committee on 23 January 2020, representatives from some EU Member States stressed the work needed to adapt the administrative and technological structures to the new CAP delivery model. They welcomed the proposed shift from compliance checks to a results-based evaluation approach, but they also highlighted that the ambitious changes the CAP reform puts forward would be better addressed with a transition period of two years.

## European Court of Auditors

On 13 March 2020, the Court of Auditors published its [opinion](#) concerning the proposal on the CAP transitional provisions. The EU auditors concluded that the proposed rules meet the aim to continue financing the CAP during the transitional period, on the basis of the amounts laid down in the post-2020 CAP proposal. However, they considered that transitional provisions should not be based on the assumption that the future regulations will be approved as they were proposed. Furthermore, they stressed that any new money used under old rules should address environmental and climate



concerns with at least the same or higher ambition than in current rules. The Court noted that the implementation of the new legal framework and the CAP strategic plans as of 1 January 2022 could be challenging. The Court's opinion suggested that the Commission and the legislators could use the transitional period to address the climate and environment challenges, as well as the need to ensure robust governance and performance measurement. Finally, EU auditors observed that the proposed postponement to the end of 2026 of the ex-post assessment of current rural development expenditure implies that the Commission would prepare its proposal for the post-2027 CAP without having fully assessed the 2014-2020 CAP performance.

## Advisory Committees

The European Economic and Social Committee (EESC) adopted its [opinion](#) on the Commission's proposal on 5 May 2020. The opinion largely welcomes the proposal for a transitional CAP year that maintains in force the conditions for receiving EU aid after 2020. It points out the need to make use of rural development funds not used during the period 2014-2020 and to set a longer duration for commitments for multiannual measures (organic farming and agri-environment-climate measures) for rural development programmes extended beyond 2020. Moreover, the EESC stresses the urgent need to ensure rapid uptake of the rural development interventions with a view to helping activities following the crisis triggered by the spread of the coronavirus. Finally, it highlights the importance of reaching an agreement on the 2021-2027 EU budget, considering the many aspects of the proposals related to it (from financial figures to administrative deadlines), and recommends introducing a flexible mechanism for extending this period if the EU's long-term budget and CAP are not approved in time.

## Legislative process

In the European Parliament, the proposed CAP transitional regulation was [referred](#) to the Committee on Agriculture and Rural Development (AGRI) on 25 November 2019. Presenting the proposal at an AGRI meeting in late 2019, a European Commission representative called for its adoption by the summer of 2020, to avoid interruption in the functioning of the CAP and ease the transition to CAP strategic planning. AGRI Members welcomed the proposal as necessary, but emphasised that it had arrived very late. Several issues were raised during the exchange of views within the AGRI committee, such as: the proposed duration of the transitional measures of only one year, with the majority of speakers making a case for a two-year extension; the budget figures set out in the proposal, which do not reflect Parliament's [position](#) on the future EU budget for agriculture; the proposed discontinuity of [transitional national aid](#); and the need to avoid introducing new CAP rules outside the debate on the post-2020 CAP.

On 12 December 2020, Parliament's Committee on Budgets (BUDG) submitted its [opinion](#) supporting the objective of the continuity of CAP support under the current rules. It called for the swift adoption of the act and highlighted that the transitional measures should not lead to additional delays in the legislative process for the CAP reform.

The [draft AGRI report](#) by rapporteur Elsi Katainen (Renew, Finland) was published on 28 January 2020. It expressed support for the proposal as a necessary legislative instrument to give EU Member States sufficient time to prepare their respective national strategic plans, as well as the administrative structures needed for a successful implementation of the new legal framework. Presenting her draft report at the AGRI meeting on 18 February 2020, the rapporteur highlighted that the transitional regulation would need to be in force in less than 45 weeks [i.e. by the end of 2020] in order to accomplish its task.

Overall, AGRI Members' 400 proposed amendments published on 2 March 2020 (which added to the some 100 amendments tabled by the rapporteur) showed very little divergence from the rapporteur's initial proposals (a substantial agreement on the main issues appears as well in the [opinion](#) of the Parliament's Committee on Regional Development (REGI) of 28 April 2020). Many

amendments (see documents [PE648.383](#) and [PE648.384](#)) sought to provide additional support to extending the application of the transitional regulation to two years if the CAP reform was not adopted on time, while others aimed to make some provisions clearer or even more ambitious in pursuing their goals. On 28 April 2020, AGRI Members voted unanimously (by 48 votes in favour) to adopt the [rapporteur's report with compromise amendments](#) agreed with political groups. The negotiating mandate was approved by plenary vote on 15 May 2020. The main amendments proposed in the approved report are as follows:

- One important compromise concerns the duration of the transitional period; the safeguard clause would trigger a second year of application of the transitional measures if the legislation on the 2021-2027 EU budget and the CAP strategic plans are not published in the Official Journal of the EU before 30 October 2020.
- Another key agreement concerns the rejection of any cuts in agricultural funding in the EU budget. Financial figures in the transitional regulation should be calculated on the basis of the figures agreed for the 2021-2027 EU budget or, if not adopted in time, on the basis of extended 2020 ceilings and provisions.
- Other proposed amendments concern the use of rural development funds from the next financial period to finance outstanding commitments where funds have run out, and a longer duration of commitments for measures on organic farming, animal welfare and environmental requirements.
- In line with Parliament's position in the negotiations on the 2021-2027 EU budget, an amendment concerning the crisis reserve seeks to ensure that its initial capital for the 2021-2027 period should be additional to the CAP budget and placed in the reserve at the beginning of the programming period. Moreover, the reform of the functioning of the reserve should be anticipated to the transitional period to allow the carryover of non-committed funds from 2021 to the following years.
- Amendments are also proposed on the provisions of risk management tools, the obligation to continue internal convergence, and the continuation during the transitional period of transitional national aid and of operational programmes in the fruit and vegetables sector, and in the wine sector.

In the Council, exchanges of views among EU agriculture ministers [took place](#) as early as November 2019, and again in [January 2020](#), under the Croatian Presidency, which declared it favoured a quick adoption of the CAP transitional rules. A number of delegations backed a longer transition period, also covering 2022. The majority of delegations were in favour of the adoption of a Council position as soon as possible, even without a prior agreement on the 2021-2027 EU budget. Some delegations called for the continuation of transitional national aid in the transitional period.

Discussions held in the Council's Special Committee on Agriculture on the Croatian Presidency's suggested amendments on the transitional rules paved the way for Council's [partial general approach](#) on the CAP transitional rules, endorsed on 6 April 2020. Among other amendments, Council put forward proposals concerning the following aspects:

- Eligibility of expenditure for rural development measures incurred under previous legislation to be subject to conditions to be determined in accordance with the CAP legal framework applicable in the period 2022-2027.
- A longer period than three years for new commitments to be undertaken in 2021 in rural development programmes, based on the nature of the commitments and the environmental-climate objectives sought.
- The extension to 31 December 2021 of programmes to support the olive oil and table olives sector, initially running from 1 April 2018 until 31 March 2021.
- Rules for the extension and maximum duration of operational programmes in the fruit and vegetables sector, depending on the date of approval of such programmes (before or after the entry into force of the transitional regulation).

- The deadline of 1 August 2020 for notifications in relation to CAP support in 2021 to be adjusted depending on the likely time for adoption of the transitional regulation.
- The continuation of transitional national aid and of Finnish national aid in 2021.
- The possibility of granting voluntary coupled support until 2021 on the basis of the production units for which such support was granted in a past reference period.

A Council [statement](#) accompanying the partial mandate for negotiations with Parliament considers that the need to extend the transitional period until the end of 2022 is very likely to emerge.

During interinstitutional negotiations held in the period May-July 2020, Parliament and Council reached a partial provisional agreement on essential aspects of the CAP transitional file. This agreement includes the decision on the two-year duration of the transitional period, on which the Commission has expressed disagreement on various occasions. Recent discussions in Council and Parliament have led to a proposal that the €8 billion additional funds for rural development stemming from the Commission's proposal for a coronavirus crisis recovery instrument ([Next Generation EU](#)) should be made available as soon as possible through the transitional regulation. Thus, in line with the German Presidency's approach, a [working document](#) on the Next Generation EU and Recovery Instrument programme for rural development, presented to AGRI members by rapporteur Paolo De Castro (S&D, Italy), puts forward amendments indicating a 30-70 % split of the €8 billion between 2021 and 2022, respectively. Further trilogue meetings should tackle the outstanding issues (i.e. financial figures and administrative deadlines), so that a vote in AGRI and the final adoption by Parliament's plenary (which is also linked to the conclusion of the 2021-2027 MFF negotiations) can be done by the end of the year, to make funds available as of 2021.

## INFORMATION SOURCES

[Transitional provisions for the support by the European Agricultural Fund for Rural Development \(EAFRD\) and by the European Agricultural Guarantee Fund \(EAGF\) in the year 2021](#), European Parliament, Legislative Observatory (OeIL).

## ENDNOTES

- <sup>1</sup> Due to the technical nature of the proposal, it was approved by Parliament and Council following a simplified procedure (see EPRS 'at a glance' note on [Stability of EU farmer income support post 2020](#), December 2019).
- <sup>2</sup> For an analysis of agricultural expenditures in the 2014-2020 EU budget and in the proposal for the 2021-2027 EU budget, see EPRS briefing on [Natural resources and environment: Heading 3 of the 2021-2027 MFF](#), January 2020.
- <sup>3</sup> 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.

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[eprs@ep.europa.eu](mailto:eprs@ep.europa.eu) (contact)

[www.eprs.ep.parl.union.eu](http://www.eprs.ep.parl.union.eu) (intranet)

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