

Targeted CAP amendments on environmental conditionality

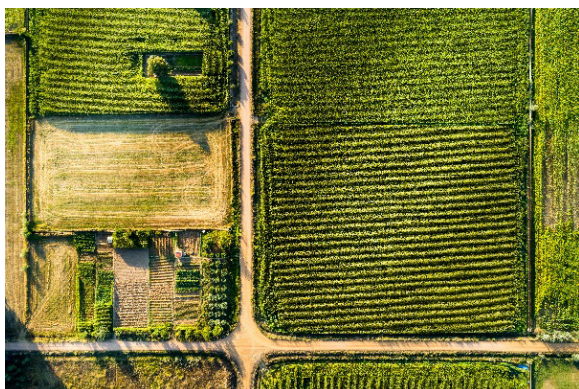
SUMMARY

On 15 March 2024, the Commission put forward a regulation that would amend two regulations concerning the common agricultural policy (CAP) – the CAP Strategic Plans Regulation and the CAP Horizontal Regulation. The proposal is part of the Commission's response to widespread protests by farmers, opposing the CAP's administrative burden and environmental requirements. It was put forward without a formal public consultation and without an impact assessment.

The proposal aims to reduce several environmental requirements to which farmers must abide to receive direct payments. The requirement to devote at least 4 % of arable land, at farm level, to non-productive areas or features, including land lying fallow, would no longer be mandatory for CAP beneficiaries. However, Member States would be required to offer a top-up, in the form of eco-schemes, to farmers setting aside land for non-productive features. Member States would be able to demand crop diversification instead of the more demanding crop rotation. They would also be able to introduce exemptions from certain requirements, and temporary derogations in case of extreme weather. The proposal would also eliminate controls and penalties regarding environmental requirements for small farms, and simplify the procedure to amend the national CAP strategic plans for Member States.

Organisations representing farmers welcomed the proposed administrative simplification of the CAP, but were divided on the reduction in green requirements. Environmental organisations, meanwhile, criticised the proposal as harmful and undemocratic.

The Commission called on the co-legislators to adopt the proposal as fast as possible. In the Council, the Special Committee on Agriculture endorsed the proposal with only minor technical modifications, and called on the Parliament to do the same. Should Parliament decide to apply the urgent procedure, the vote on the proposal would take place during the April II plenary session.



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Introduction

On 15 March 2024, the European Commission presented a [proposal](#) that would introduce targeted amendments to two regulations concerning the common agricultural policy (CAP): the [CAP Strategic Plans Regulation](#) and the [CAP Horizontal Regulation](#). The amendments would reduce environmental CAP requirements for all farms and abolish controls and penalties for non-compliance with those requirements for about two thirds of farms. It would also simplify the procedure to amend the national CAP strategic plans (CSPs) for Member States.

The proposal is part of the Commission's response to widespread [protests](#) by farmers in a number of Member States. Farmers express numerous complaints, including about unfair income, unfair trading practices employed by big distributors and retailers, trade liberalisation and imports from Ukraine and EU free trade agreements. They also denounce the European Green Deal and Farm to Fork strategy, and some of their demands aim directly at the CAP – they particularly decry cumbersome administrative procedures and environmental requirements imposed for access to [direct payments](#).

Simultaneously with the legislative proposal, the Commission [announced](#) several other steps to address the issues highlighted by farmers.¹ It announced it would immediately create an observatory of production costs, margins and trading practices in the agri-food supply chain and that it would present an interim report on the implementation of the [Unfair Trading Practices \(UTD\) Directive](#) in April 2024. It is also exploring the possibility to present, in the second or third quarter of 2024, a proposal to amend the third major CAP regulation – the [Common Market Organisation \(CMO\) Regulation](#) – and present a new legislative proposal on cross-border enforcement against unfair trading practices. It could bring forward, to 2025, the evaluation and a possible revision of the UTD. The Commission also invited farmers to participate in a [survey](#) on the simplification of the CAP. The Commission had already put forward a partial derogation to one environmental requirement imposed under the CAP and had simplified the rules on another.

Environmental conditionality in the CAP

The current main CAP regulations – CAP Strategic Plans Regulation, CAP Horizontal Regulation and CMO Regulation – were proposed by the Commission in 2018, and adopted by Parliament and the Council in 2021. They have applied since 1 January 2023.

According to the CAP Strategic Plans Regulation, to receive the full amount of [direct payments](#) and some types of rural development funds,² farmers must adhere to environmental and social 'conditionality'.³ This environmental conditionality includes two types of requirements:

- **statutory management requirements (SMRs)** are obligations that apply to all farmers, regardless of whether they receive CAP income support or not. These requirements originate from other EU legislation on animal welfare, public, animal and plant health, and climate and the environment, but are integrated into the CAP legislation. Farmers must currently adhere to 11 SMRs and the proposal does not aim to change any of them;
- **standards for good agricultural and environmental condition of land (GAECs)** are specific to the CAP. While the CSP Regulation lays down the main principles for the GAECs, the minimum requirements are decided by Member States, to allow for particularities of their agriculture. It is this part of the conditionality provisions that the proposal aims to change.⁴

The current CAP includes the following nine GAECs:

- **GAEC 1: Maintenance of permanent grassland.** The ratio of permanent grassland to agricultural area cannot decrease by more than 5 % compared to 2018. Austria and Germany set the threshold value at 4 % and Portugal at 4.5 %. A similar requirement

existed in the previous CAP as part of greening measures. In March 2024, the Commission proposed a [change in rules](#) to make it easier for Member States to adhere to this GAEC.

- **GAEC 2: Protection of wetland and peatland.** This is a new requirement that most Member States decided to implement from 2024 or 2025.
- **GAEC 3: Ban on burning arable stubble,** except for plant health reasons. This type of requirement existed in the previous CAP as GAEC 6.
- **GAEC 4: Establishment of buffer strips.** Farmers are required to use no fertilisers or pesticides on at least three metres of land adjoining the length of water courses, to prevent water pollution. This is an enhanced requirement compared to the previous CAP. Nine Member States require wider buffer strips.
- **GAEC 5: Tillage management in areas at risk of erosion.** This requirement existed in the previous CAP. Most Member States apply this to arable land on slopes and have introduced bans on ploughing, a required direction of ploughing or mandatory plant cover.
- **GAEC 6: Minimum soil cover.** This requirement seeks to avoid bare soil in the most sensitive periods (mainly in winter) to protect the soil against leaching, erosion and depletion of organic matter. It is enhanced compared to the previous CAP. Some Member States have opted for lower requirements due to a shorter vegetation period. Eight Member States also require a minimum soil cover on fallow land.
- **GAEC 7: Crop rotation.** Applies to all arable land at parcel level, except for crops growing under water. Almost all Member States require a significant share of land per farm to rotate at least once a year. Most Member States used a [derogation](#) from this GAEC in 2023, the first year of the new CAP. This is an enhanced requirement compared to the crop diversification that was part of the greening obligations in the previous CAP.
- **GAEC 8: Non-productive areas or features.** At least 4 % of arable land at farm level must be devoted to non-productive areas or features, including land lying fallow. Two alternatives are possible. If farmers commit at least 7 % to non-productive areas under an eco-scheme, the share attributed to the GAEC can be 3 %. If farmers dedicate 7 % to [catch crops](#)⁵ or nitrogen fixing crops, they may leave only 3 % for non-productive features. This GAEC also includes a ban on cutting hedges and trees during the bird breeding and rearing season and can include measures for avoiding invasive plant species. This is an upgraded requirement compared to the previous CAP. Many Member States allow farmers to choose alternatives to the 4 % requirement. Most Member States used a derogation from this GAEC in 2023. A 2024 [partial derogation](#) allows the 4 % to be dedicated to nitrogen crops or catch crops instead of non-productive areas.
- **GAEC 9: Ban on converting or ploughing permanent grassland designated as environmentally-sensitive permanent grasslands in Natura 2000 sites.** This existed in the previous CAP as part of the greening requirements.

Member States are allowed to introduce additional GAECs on their territory, and six have done so, according to a Commission [analysis](#). Austria, Spain, Latvia and the Netherlands have an additional GAEC regarding nutrient management and/or protection of water courses; Flanders in Belgium has a GAEC that bans converting or ploughing permanent grasslands designated as environmentally sensitive **outside** Natura 2000 sites; while Finland requires that any area converted to new agricultural land from other uses must be permanently under grassland.

According to the Commission [report](#) on the collective ambition of the CAP strategic plans, Member States originally expected that 89 % of EU farmland would be subject to conditionality, but this report did not take into account the derogations approved in 2023 and 2024 in the wake of the Russian invasion of Ukraine and the ensuing [fears](#) of a global food shortage and the rapid inflation in [food prices](#).

Controls and penalties for non-compliance

In line with the [CAP Horizontal Regulation](#), Member States are required to set up a system to verify the compliance of CAP beneficiaries with CAP conditionality, including on-the-spot and administrative checks, and can make use of remote sensing or the area monitoring system. They must establish the control sample for the on-the-spot checks to be carried out each year on the basis of a risk analysis. However, they can set up a simplified control system for farmers receiving payments for small farmers (up to €1 250 per year) or, if a Member State does not offer this type of payments, a simplified control system can be set up for farms of up to five hectares.

Member States are also required to lay down administrative penalties for farmers who do not comply with the SMRs and GAECs. The reduction should generally be 3 % of direct payments, but it can also vary: zero, if non-compliance has no or insignificant consequences for the achievement of the SMR or the GAEC objective; more than 3 % if the non-compliance has grave consequences or constitutes a direct risk to public or animal health; 10 % if non-compliance persists or reoccurs once within three consecutive calendar years, and 15 % if the same non-compliance reoccurs 'without justified reason' (i.e. constitutes intentional non-compliance).

Other elements of the CAP's green architecture

The CAP's green architecture also includes eco-schemes – direct payments for environmentally friendly practices that go beyond the conditionality imposed by the CAP, and which are voluntary for farmers. These schemes differ greatly across the EU, as they are designed by Member States, which are expected to adapt them to the particular characteristics and priorities of their agriculture. They were required to set aside 25 % of their allocations for direct payments for this purpose.

Farmers are also eligible for rural development payments that benefit the climate and the environment. These include agri-environment-climate commitments (AECC), payments for natural or other area-specific constraints (ANC), payments for area-specific disadvantages resulting from certain mandatory requirements, green investment and interventions for cooperation, knowledge exchange and dissemination of information. Member States are required to set aside 35 % of their rural development allocations to these interventions, but actually planned to set aside 48 %.

Changes the Commission's proposal would bring

On 15 March 2024, the Commission proposed a regulation that would introduce targeted amendments to the CAP Strategic Plans Regulation and the CAP Horizontal Regulation. The proposal has the following main elements:

- **GAEC 8** – the requirement to devote at least 4 % of arable land at farm level to non-productive areas or features, including land lying fallow, would no longer be mandatory for CAP beneficiaries. To reward the farmers who nevertheless choose to maintain a share of arable land in non-productive state or create new landscape features, all Member States would be required to offer this as an eco-scheme. Other GAEC 8 requirements – retention of landscape features, ban on cutting hedges and trees during the bird breeding and rearing season and, as an option, measures for avoiding invasive plant species – would remain in force;
- **GAEC 7** – annual crop rotation at farm level would no longer be the only way to fulfil this requirement. Member States would be allowed to enable farmers to comply through crop diversification instead;
- **GAEC 6** – the text requiring minimum soil cover in the most sensitive periods (mainly in winter) would be reworded to clarify that the exact requirements are determined by Member States;
- **GAEC exemptions** – Member States would be able to exempt certain crops, soil types or farming systems from requirements on tillage, soil cover and crop rotation (GAECs 5, 6 and 7). They would also be able to introduce exemptions to allow

ploughing to restore permanent grassland in Natura 2000 sites where it is damaged due to predators or invasive species (GAEC 9). The exemptions would have to be limited in terms of area coverage and established only where they are necessary to address specific problems in the application of those standards;

- **Temporary GAEC derogations due to extreme weather** – In case of weather conditions preventing farmers from complying with a GAEC in a given year, Member States would have a right to allow a temporary derogation. These derogations should be limited in time and only apply to the beneficiaries affected;
- **Controls and penalties for small farms** – Farms up to 10 hectares would be exempted from controls and penalties regarding the conditionality. This would affect around 65 % of CAP beneficiaries;
- **Ban on double controls** – Beneficiaries receiving area payments for rural development under both the new and the previous CAP (as some programmes started under the previous CAP continue until 2025), would be subject to controls and penalties only under the new CAP rules;
- **Amendments to CAP strategic plans** – Member States would be allowed to amend their CAP strategic plans (CSPs) twice yearly instead of once a year (plus an additional three times during the current CAP). They would not be required to assess and amend their CSPs to adjust them to EU environmental legislation that takes effect after 2025. This would be left for the post-2027 CAP;
- **Entry into force** – The regulation would enter into force on the day following its publication in the Official Journal. Rules on GAECs, controls and penalties could apply retroactively from 1 January 2024, depending on when the final act is adopted.

Preparation of the proposal and scientific views

The Commission presented the proposal without a formal public consultation and without an accompanying impact assessment, citing the extraordinary circumstances. It noted that the advantages and drawbacks of the conditionality rules were analysed in the [impact assessment](#) for the current CAP regulations.

Instead of a formal consultation, the Commission relied on an 'ad hoc consultation process which lasted one week'.⁶ As part of this process, it sent a letter to four 'main EU-level farming organisations',⁷ and asked for their proposals to reduce the administrative burden for farmers. The Commission also considered the [responses](#) to a similar letter sent by the Belgian Presidency of the Council to the Member States' agriculture ministries. A [letter](#) sent to the Commission by the Chair of Parliament's Committee on Agriculture and Rural Development, supported by the majority of political groups, also fed into the Commission's process.

While no official impact assessment accompanied the proposal, there is extensive scientific analysis of the elements of the CAP that will be affected by the Commission's proposal. The Commission's own 2023 [report](#) on the collective ambition of the CAP strategic plans concluded that even without the GAEC exemptions and derogations, the CAP interventions planned by Member States required a more holistic and longer-term approach and a greater coverage of more promising schemes to reach the EU climate and environmental goals. The report notes that GAEC 7 on crop rotation was expected to significantly contribute to soil protection and pesticide reduction; GAEC 8 on non-productive areas, in addition to enhancing biodiversity was also important for reducing pesticide use; while GAEC 6 on minimum soil cover was an essential contribution to soil protection and nutrient management.

In addition, just days before the proposal, the European Environment Agency (EEA) published a [report](#) that warned that the CAP is not sufficiently used to deal with the needs for climate adaptation in agriculture and that the current CSPs have 'considerable room for further improvement'. It warned that crop production in particular was at substantial risk due to droughts, heat, overly wet conditions, and water scarcity in the mid-term, while in southern Europe these risk levels are critical.

The EEA argued more mandatory climate adaptation measures were needed in agriculture, not fewer. It suggested that mandatory participation of farmers in some eco-schemes, particularly in the regions most at risk, should be considered. In its previous [report](#), the EEA found that the conditionality standards, even without the derogations, were not ambitious enough. It also criticised the fact that most of the CAP interventions are used for income support paid by hectare, meaning that most of the CAP funding goes to support conventional, high-input food production.

The European Scientific Advisory Board on Climate Change, the official advisory body of the EU institutions, similarly noted in its January 2024 [report](#) that the CAP conditionality, as well as the criteria for eco-schemes, should be strengthened and defined more specifically. It criticised the flexibility in the current CAP that allows Member States to include broad exemptions to the conditionality requirements and design eco-schemes in a way that enables them to pay farmers for practices with limited added environmental value. It also noted that 'ensuring compliance with these requirements, in terms of both monitoring and enforcement, remains a weak point'. The Board found that, for agricultural emissions to fall, more adequate financial incentives for farmers are needed.

A 2022 [report](#) by the European Academies Science Advisory Council (EASAC) on regenerative agriculture analysed different types of agricultural practices and their effects on carbon capture and storage, biodiversity and food production. While it found some practices that had a positive impact on the environment, but a negative effect on food production (e.g. conversion of arable land to grassland), a number of practices were found to have no or limited negative effects on food production. This includes increased diversification within and among crops, introduction of permanent and perennial crops, expanded agroforestry and intercropping, keeping green plant cover on all farm fields during all seasons, and reduced tillage. The report also recommended a focus on small farms and a targeted support system, and information campaigns about CAP eco-schemes aimed at farmers.

Stakeholder views

Copa and Cogeca, which represent EU farmers and cooperatives, [called](#) for rapid adoption of the Commission's proposal, to allow for implementation as early as 2025 and welcomed the exemption of farms under 10 hectares from CAP conditionality controls and penalties. They said that, while the changes to GAECs 5, 6 and 7 allow Member States and farmers a more flexible manner to attain them and to take into consideration local extreme weather events and soil conditions, the flexibility for GAEC 7 on crop rotation does not go far enough. Copa and Cogeca welcomed moving part of the GAEC 8 objectives to voluntary eco-schemes, but said that the use of agro-environmental climate commitments (AECC) should also be allowed for the same purpose. They also called for the assessment and approval of national CAP strategic plans to be swifter and more responsive to the needs of Member States and farmers.

The **European Council of Young Farmers** (CEJA) did not immediately comment on the proposal. However, it had previously [welcomed](#) the simplification package laid out in the Commission's non-paper. It said that young farmers wanted to make sure that the proposals were tailored to farmers' needs on the ground, without compromising on the ambition to protect farmers' livelihood and the environment. In particular, CEJA highlighted the need to alleviate the administrative burden in the short term, while in the medium term, it proposed a vast consistency check across all policies related to agriculture and forestry. This would make the CAP the main entry point for farmers and would provide them with an overview of all the regulatory requirements with which they must comply.

IFOAM Organics Europe, representing European organic farmers, [warned](#) that the Commission's proposal is 'misguided', as it will lower the CAP's environmental delivery and prompt the Member States to 'engage into an environmental race to the bottom'. It notes that instead of encouraging more farmers to transition to sustainable farming systems, the proposal delivers the opposite, lowering environmental requirements, without providing a comparative advantage to farmers who

invest in ambitious sustainable farming systems such as organic cultivation. It called on the Commission to maintain the environmental aspects of the CAP as a priority and to provide better incentives farmers for a sustainable transition to make them resilient to future social and environmental crises.

European Coordination Via Campesina, representing family and peasant farmers, [said](#) that the simplification measures that are needed must be adapted to support small- and medium-scale farmers. It warns the measures must not drive an increasingly industrialised model, but should instead focus on helping farmers to make the transition to more sustainable agriculture and agroecology. Instead of measures that fail to address the current climate and environmental problems, the organisation says farmers need fair prices and proper remuneration.

More than a dozen non-governmental organisations, including the **European Environmental Bureau** (EEB), **Client Earth**, **Eurogroup for Animals** and the **European Consumer Organisation** (BEUC), issued a [joint letter](#) calling on the Commission to withdraw the proposal, as it comes without an impact assessment or formal public consultation. They said that, while four farmer organisations had been consulted, 'it appears that the majority of these organisations did not ask to reduce the environmental ambition of the CAP'. The letter warned that the Commission has 'given in to the fake narrative that opposes the environment to agriculture, when evidence shows that they depend on each other', and said that the proposed measures will 'undermine the very jobs that the CAP is meant to support in the long-term'.

Bird Life Europe [said](#) that the proposal is a 'frontal attack on the environmental elements of the CAP', that will deal a severe blow to the capacity of the CAP to safeguard biodiversity and protect soil health, and inevitably exacerbate the decline of crucial wildlife populations, including birds, butterflies, and pollinators. It said the proposal 'flies in the face of scientific consensus, disregards the long-term interests of both farmers and society at large and has 'shockingly' been put forward without stakeholder consultations or an impact assessment.

World Wide Fund for Nature (WWF) [said](#) that the proposal to 'bulldoze a swathe of the Common Agricultural Policy's environmental measures today is an ill-informed attempt to stop farmers protesting that is out of touch with public opinion and science'. It quoted an opinion poll according to which a majority of people in France, Germany and Italy believe ensuring fair prices for farmers, and helping them deal with the impacts of climate change, are the most important areas where the EU should act. It also warned that the proposal contradicts the Commission's own scientists from the European Environment Agency.

Pesticides Action Network (PAN) Europe [warned](#) that the proposal goes directly against the public interest, expert assessment and scientific recommendations. It said that the Commission was fooling farmers and citizens, and making problems even worse in the long term, as the proposal will reduce farmers' resilience to challenges related to climate, erosion, soil health and pests. It noted that 'pretending to reduce administrative burden might sound nice, but the EU can't spend one-third of its taxpayers' money on practices which harm citizens' health and the environment. These actions will increase the burden on farmers and society in the long run'.

Legislative process

The Council moved swiftly on the proposal, discussing it in the Special Committee on Agriculture (SCA) meeting on 18 March 2024. On 26 March, the SCA [endorsed](#) the Commission's proposal with only [technical modifications](#) and sent a formal letter to the Chair of Parliament's Committee on Agriculture and Rural Development (AGRI). The [letter](#) notes that, should the Parliament adopt the same text at first reading, the Council would then adopt it, allowing the legislative text to be adopted rapidly. The technical modifications endorsed by the SCA include giving Member States the possibility to apply the amendments 'as from' instead of 'for' the 2024 claim year.

In the [European Parliament](#), Commissioner Janusz Wojciechowski presented the proposal to Parliament's Committee on Agriculture and Rural Development (AGRI) on 19 March, and called for its quick adoption. If the Parliament is to adopt the proposal during the ninth term, it would have to apply the [urgent procedure](#). The vote on applying this procedure is scheduled for 11 April, and if it passes, the vote on the proposal would take place during the April II session.

MAIN REFERENCES

European Commission, [Approved 28 CAP Strategic Plans \(2023-2027\)](#), June 2023

ÖIR GmbH, [Research for AGRI Committee: Comparative analysis of the CAP Strategic Plans and their effective contribution to the achievement of the EU objectives](#), June 2023

Jensen, L., [Climate impact of the EU agrifood system](#), February 2023

ENDNOTES

- ¹ The Commission had laid out its proposals in a [non-paper](#) addressed to the Council.
- ² This includes agri-environment-climate commitments (AECC), payments for natural or other area-specific constraints (ANC) and Natura 2000 and Water Framework Directive payments. See Article 70, 71 and 72 of CAP Strategic Plans Regulation.
- ³ The social conditionality becomes mandatory on 1 January 2025.
- ⁴ A similar structure existed in the 2013-2020 CAP under the name of 'cross-compliance'. It was also comprised of SMRs and GAECs (although not the same ones), plus 'greening', which included three mandatory practices: crop diversification, maintaining existing permanent grassland and placing an ecological focus on the agricultural area. A [comparison of these requirements](#) shows that some requirements are new, some from the previous CAP were maintained in the current version, some were made more demanding and others have been dropped.
- ⁵ Member States should use the weighting factor of 0.3 for catch crops.
- ⁶ See the explanatory memorandum to the [proposal](#).
- ⁷ According to the Commission's non-paper, these were Copa and Cogeca, CEJA, IFOAM and the Via Campesina.

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