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WORKING DOCUMENT

on European Court of Auditors' Special Report No 21/2017 (2016 discharge):
“Greening: a more complex income support scheme, not yet environmentally”

Committee on Budgetary Control

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Introduction

The 'green payment' or 'greening': a new type of direct payment introduced with the 2013 CAP reform, is the only direct payment whose main stated objective is 'green', namely to enhance the CAP's environmental performance.

Greening is not an optional scheme. All farmers participating in CAP direct payment schemes (such as the Basic Payment Scheme or the Single Area Payment Scheme) must also apply for the green payment. However, smaller holdings can benefit from support under greening without having to meet all, or even any, of greening requirements. Greening requirements also do not apply to holdings considered 'green by definition': for example, organic farmers.

The greening requirements encompass three farming practices:

- (a) Under crop diversification, farmers with more than 10 hectares of arable land are obliged to grow at least two crops. At least one further (i.e. third) crop must be introduced on farms exceeding 30 hectares of arable land. The share of arable land that farmers may devote to the main crop is limited to 75 %. On farms where at least three crops are required, the two main crops taken together must not cover more than 95 % of arable land. The main stated aim of crop diversification is to improve soil quality;
- (b) Maintenance of permanent grassland combines two separate mechanisms. Member States must:
 - monitor (at national or regional level) the proportion of permanent grassland in the total agricultural area covered by CAP direct payments. If the ratio falls by more than 5 % from a reference level, then Member States must require farmers to restore permanent grassland previously converted to other land uses;
 - designate the areas of grassland which are the most sensitive from an environmental point of view. The conversion and ploughing of such environmentally sensitive permanent grassland (ESPG) is prohibited.

According to EU legislation, permanent grassland is maintained under greening primarily for the purpose of carbon sequestration.

- (c) Farmers with more than 15 hectares of arable land must devote an equivalent of 5 % of that land to ecological focus areas (EFAs). EU legislation provides for 19 distinct EFA types with which farmers can meet this obligation, including land lying fallow, catch crops, nitrogen-fixing crops and several types of landscape features). However, individual Member States may decide to offer their farmers fewer EFA options. The main objective defined for EFAs is to safeguard and improve biodiversity.

Apart from greening, the CAP has two other important instruments for pursuing environmental and climate objectives:

- (a) Cross-compliance is a mechanism linking most CAP payments to a set of basic standards to ensure the good agricultural and environmental condition of land (GAECs) and certain obligations, known as statutory management requirements (SMRs). SMRs are defined in the respective EU legislation on the environment, climate change, public, animal and plant

health, and animal welfare. Farmers who do not meet these standards and requirements risk incurring a penalty reducing all their direct payments, usually by 1 % to 5 %;

- (b) Environmental measures under rural development (CAP's Pillar II) – such as the agri-environment-climate measure – are like the green payment in that they reward farmers for certain practices that benefit the environment and climate. Unlike greening, however, these measures are contractual, based on voluntary commitments by farmers. The premiums paid to farmers reflect the additional costs and income loss resulting from such commitments.

The EU spends a considerable amount on the new green payment: 12 billion euro per year, representing 30 % of all CAP direct payments and almost 8 % of the whole EU budget. For farmers (who received their first green payments during the 2016 financial year, for claims submitted in 2015) this translates into an average rate of around 80 euro per hectare per year, with some variation between and – in some cases – within Member States. When greening was introduced, the European Parliament and the Council (the budgetary authorities) shifted these funds from the other direct payments.

Audit scope, objective and approach.

The audit of the Court covered the design of greening and its first two years of implementation (claim years 2015 and 2016), as well as the coherence between this scheme and the other CAP environmental instruments of the CAP, i.e. cross-compliance and the environmental measures under rural development.

The Court's main objective was to assess whether greening was capable of enhancing the CAP's environmental and climate performance, in accordance with the objective set in the relevant EU legislation. In order to reply to this main audit question, the Court examined:

- (a) intervention logic, existence of clear and sufficiently ambitious targets for greening and the justification for the policy's budget allocation;
- (b) benefits that greening can be expected to produce for the environment and climate;
- (c) complexity which greening adds to the CAP.

The findings of the Court are based on:

- (a) analysis of information from numerous sources, including legislation, Commission's guidelines and working documents, exchanges of correspondence and information between the Commission and Member States, data on greening implementation as well as critical literature review;
- (b) visits to the relevant Commission directorates-general (DG AGRI, DG CLIMA, DG ENV and the JRC) and EU-level stakeholders (COPA-COGECA and BirdLife);
- (c) interviews (through questionnaires and visits or video conferences) with the authorities of five Member States: Greece, Spain (Castile and León), France (Aquitaine and Nord-Pas-de-Calais), the Netherlands and Poland;
- (d) focused desk review on the risk of double funding covering ten further Member States:

Belgium (Wallonia), the Czech Republic, Germany (Brandenburg), Ireland, Italy (Campania), Lithuania, Austria, Slovenia, Finland and the UK (Wales);

- (e) analysis of the Court's audit results from the 2016 statement of assurance, in particular regarding changes in farming practices attributable to greening.

Court's findings and observations

Greening serves two distinct objectives. On the one hand it is meant to enhance the CAP's environmental and climate performance. On the other hand – as a CAP direct payment - it remains an instrument for supporting farmers' income. Only the first of these objectives is explicitly stated in the legislation (see paragraphs 13 to 14).

The Court found that the green payment lacks a fully developed intervention logic. The Commission has not set specific targets or otherwise specified what greening can be expected to achieve for the environment and climate. Any assessment of the effectiveness of the policy will additionally be affected by the fragmentary knowledge of the baseline situations in particular in terms of biodiversity and the quality of soil, including organic carbon content (see paragraphs 15 to 16).

The initial Commission proposal for greening was more ambitious in environmental terms. The subsequent dilution of the policy's environmental content did not change the level of funding proposed. This was set, from the outset, at 30 % of CAP direct payments. On average, greening subsidies exceed significantly the cost to farmers (including from lost income) of meeting greening requirements. This is because the greening budget was fixed without a link to the policy's level of environmental ambition. Greening remains, essentially, an income support scheme (see paragraphs 17 to 25).

Greening is unlikely to provide significant benefits for the environment and climate, mainly because of the significant deadweight which affects the policy. This deadweight arises primarily from the fact that greening requirements are generally undemanding and largely reflect normal farming practice. Additionally, due to extensive exemptions most farmers (65 %) are able to benefit from the green payment without actually being subject to greening obligations. As a result, greening leads to a positive change in farming practices on only a very limited share of EU farmland. The Court estimate that farmers created new EFAs and increased crop diversification on only around 3.5 % of arable land, i.e. around 2 % of all EU farmland. Additionally, according to a JRC study, new greening requirements relating to permanent grassland resulted in a change in farming practices on only 1.5 % of EU farmland. Overall, around 5 % land farmed in the EU was reallocated due to greening (see paragraphs 26 to 39).

The Court also found that certain design limitations reduced the effectiveness of the three greening practices. Crop diversification could not provide the full environmental benefits of crop rotation. The Environmentally sensitive permanent grassland (ESPG)¹ designation was based mainly on biodiversity-related criteria and poorly targeted carbon rich permanent grassland outside Natura 2000 areas. Finally, the predominance of productive EFA types,

¹ Parcels of permanent grassland, primarily those located inside Natura 2000 areas, designated by Member States because of their importance for biodiversity, in particular for protected grassland species and habitats. Under greening, such parcels are protected against conversion to other land use or ploughing.

combined with a lack of meaningful requirements on management, limited the positive impact of EFAs on biodiversity (see paragraphs 40 to 50).

Member States have a significant degree of flexibility in implementing greening, especially as regards the choice of EFA types and the designation of ESPG. The Court found that, in general, they do not use this flexibility to maximise the policy's environmental and climate benefits. Rather, they strive to implement greening in a way which minimises the burden on themselves and their farmers. The Commission has limited power to push Member States towards greening implementation options offering greater environmental benefits (see paragraphs 51 to 54).

Greening has had limited impact for the baseline of Pillar II environmental measures, mainly because the commitments proposed to farmers under these measures were above greening requirements even before the green payment was introduced (see paragraphs 55 to 57).

Greening adds significant complexity to the CAP which is not justified in view of the results that greening can be expected to produce (see paragraphs 78 to 81). This complexity arises not least because of how greening overlaps with the CAP's other environmental instruments (cross-compliance and the Pillar II environmental measures), creating the risk of deadweight and double funding. Certain decisions and actions by the Commission and Member States mitigate these risks. The recent amendment of the secondary legislation has addressed certain concerns farmers and Member States have regarding the policy's complexity. We also found that Commission's supervision of how Member States implement greening was good (see paragraphs 58 to 69).

Greening resembles GAECs in that it is also, essentially, a set of basic environmental conditions applicable to income support. What sets it apart from GAECs is the higher potential penalties for non-compliance (see paragraphs 70 to 71).

Recommendations of the European Court of Auditors

1. For the next CAP reform, the Commission develop a complete intervention logic for the EU environmental and climate-related action regarding agriculture, including specific targets and based on up-to-date scientific understanding of the phenomena concerned.
 - (a) As part of the intervention logic, the Commission should define needs, inputs, processes, outcomes, results, impacts and the relevant external factors;
 - (b) The Commission should define specific targets for the CAP's contribution to the environmental and climate-related objectives of the EU;
 - (c) In order to make it possible to design an effective policy and subsequently to monitor and evaluate its implementation, the Commission should develop models and data sets regarding biodiversity, soil condition (including soil carbon content) and other relevant environmental and climate-related issues.

Target implementation date: end of 2019.

2. As preparation for developing its proposal for the next CAP reform, the Commission review and take stock of the implementation of the current CAP. In building this proposal,

the Commission should be guided by the following principles:

- (a) Farmers should only have access to CAP payments if they meet a set of basic environmental norms:
- These norms should encompass areas covered by the current GAECS and the generalised greening requirements (which are both meant to go beyond the requirements of environmental legislation). This would simplify the system of CAP direct payments by avoiding artificial and confusing distinctions between essentially similar instruments;
 - Penalties for non-compliance with these combined norms should be sufficient to act as a deterrent;
 - In order to avoid double funding, all such basic norms should be fully incorporated in the environmental baseline for any programmed action regarding agriculture.
- (b) Specific, local environmental and climate-related needs can be appropriately addressed through stronger programmed action regarding agriculture that is based on:
- the achievement of performance targets;
 - and funding reflecting an assessment of the average costs incurred and income foregone in relation to actions and practices going beyond the environmental baseline.
- (c) When Member States are given options to choose from in their implementation of the CAP, they should be required to demonstrate, prior to implementation, that the options they select are effective and efficient in terms of achieving policy objectives.

Target implementation date: end of 2019.

Replies of the Commission

Whilst the Commission accepts the recommendations of the Court of Auditors in substance, it is not in a position at this stage to make specific commitments in relation to legislative proposals for the post 2020 period. However, work has already started to further develop the intervention logics of environmental and climate-related instruments of the CAP including greening.

Draftsman's comments and recommendations for possible inclusion in the annual discharge report

The European Parliament:

- Welcomes the recommendations proposed by the European Court of Auditors and invites the European Commission to follow-up on these recommendations and remarks outlined in the ECA report;
- Notes the considerably high spending on the new green payment representing 30 % of all CAP direct payments and almost 8 % of the whole EU budget, whilst notes with concern

that this amount does not correspond to the level of ambition that the green payment offers; invites the Commission to take this into account when preparing a CAP reform;

- Regrets the fact that it remains unclear how greening is expected to contribute to the broader EU targets on climate change; calls on the Commission to create a specific action plan for greening as a part of a new CAP reform that would clearly outline the intervention logic and also a set of specific, measurable targets;
- Is concerned that the greening instrument remains an income support measure that even allows the farmers to increase their income by up to 1%, while not in many cases necessarily imposing any obligations or costs related to the implementation, thus hindering the *raison d'être* of the financing; calls on the Commission to develop more stringent rules on farmers, while avoiding overuse of exemptions;
- Is concerned by the level of complexity and transparency of greening and CAP itself; calls on the Commission to streamline the greening programme and the entire CAP in order to raise the level of transparency and to avoid the high risk of abuse;
- Is particularly worried by the conclusion of the European Court of Auditors that the greening is unlikely to provide significant benefits for the environment and climate and calls on the Commission to reconsider the existence of the instrument and the possibility to re-invest the considerable greening funds into already existing, often overlapping programmes that have proven to be more effective and justified.