

2020 Discharge to the Commission

WRITTEN QUESTIONS TO COMMISSIONER WOJCIECHOWSKI

Hearing on 6 December 2021

Questions concerning general issues

1. What measures have been taken to continue the simplification of the EU rules and the CAP rules for the farmers?

Commission's answer:

The new Common Agricultural Policy provides an opportunity for Member States to ensure the design of the policy and the interventions that will apply to beneficiaries are as simple as possible and easy to implement.

Firstly, the new regulations represent a major change in the way the policy is implemented under the 'New Delivery Model'. The New Delivery Model will replace the current compliance approach, based on detailed rules at beneficiary level, with a performance-based framework, focusing on achievement of results by the Member States.

Secondly, the level of detailed legislation at EU level is reduced considerably.

Thirdly, it empowers Member States to ensure that the rules they define for farmers are also in line with the principle of simplification.

The CAP Strategic Plan Regulation provides that “when pursuing the specific objectives, Member States, with the support of the Commission, shall take appropriate measures to reduce the administrative burden and ensure simplification in the implementation of the CAP”. To this end, the Regulation requires Member States to provide an explanation of how the interventions and elements common to several interventions contribute to simplification for final beneficiaries and to reduce the administrative burden.

2. What steps did the Commission take in 2020 to establish a single interoperable public database of ultimate beneficiaries of common agricultural policy funds?

Commission's answer:

The Commission recalls that for the MFF 2014-2020 and NGEU it has put forward proposals to improve the collection of data by Member States on recipients of EU funding implemented under shared management and under the Recovery and Resilience Facility ('RRF'). These proposals included the recording and storing of data on recipients of EU funding including their beneficial owners (in case the recipients are not natural persons) in standardised (electronic) format. The Commission also proposed the compulsory use of a single data-mining and risk-scoring tool to access, analyse such data, and allow identification, based on a set of risk indicators, measures, contracts and recipients that might be susceptible to risks of irregularities, fraud and conflicts of interest. Such tool would enhance the quality and comparability of data on the recipients of EU funding for control and audit purposes and would allow Member States to better target their audit and control activities and the Commission to better target its supervisory role.

Important progress was achieved in the adopted legislation as regards the type of data, including beneficial ownership data, which now has to be collected by Member States for Cohesion Policy and RRF. For CAP, the agreed legal text requires, for the purposes of protecting the financial interests of the Union and for transparency, the identification of the group in which the beneficiaries participate.

Unfortunately, the adopted legislation does not make obligatory the use of the single data-mining and risk-scoring tool to be provided by the Commission. The Commission made formal statements concerning this point. For CAP, there is however a review clause requiring the Commission to present, by 2025, a report which assesses the use of the single data-mining tool and its interoperability with a view to its generalised use by Member States, accompanied, if necessary, by appropriate proposals.

While the use of the data-mining tool was not made compulsory at this stage, all texts (including the Inter-institutional Agreement – "IIA") contain an obligation for the Commission to provide Member States with a single data-mining tool that they can voluntarily use for control and audit purposes, with a view to a generalised application by Member States. The Commission will do its utmost to encourage the Member States to use this data-mining tool.

The Commission intends to use the upcoming revision of the Financial Regulation, as the overarching regulation for the implementation and control of the EU budget, as another opportunity to enhance the protection of the EU budget against irregularities, fraud, corruption and conflicts of interest and to enhance transparency and public scrutiny with regard to the use of the EU budget.

3. Has DG AGRI established criteria in advance for the use of exceptional measures and overcompensation cases as it was recommended several times by ECA?

Commission's answer:

Market disturbances are of a multidimensional, sudden and unforeseen nature, making it undesirable to predefine operational thresholds that would restrict any eventual course of action to a predetermined framework. This has been repeatedly expressed by the Commission in its answers to several ECA reports, for instance special report 23/2019 on Farmers' income stabilisation. Market disturbances have to be addressed on an ad-hoc basis and with a holistic approach. The triggering of such exceptional measures is however based on analysis and the terms of the relevant market support measures and is discussed as appropriate with co-legislators and stakeholders.

As regards risks of overcompensation identified in the same ECA report 23/2019 in relation to free distribution of processed fruit and vegetables, the Commission already adopted mitigation measures in 2020. Article 45 of Commission Delegated Regulation (EU) No 891/2017 has been amended to set a specific ceiling to avoid overcompensation by specifying that the sum of costs of transport, sorting and packaging of products withdrawn for free distribution of processed fruit and vegetables, added to the maximum amount of support for withdrawals, shall not exceed the average market price in the previous 3 years.

4. Please provide a list of studies commissioned by DG AGRI in 2020 indicating the following information: 1) title and scope, 2) who conducted the study, 3) total cost of the study, 4) whether the study was commissioned through an open call or a framework agreement, 5) date of completion, 6) whether the study was published and where, 7) what was the study used for (e.g. which legal proposal, impact assessment, other)

Commission's answer:

Detailed information is presented in Annex 1.

Questions concerning potential fraud and misuse of EU funds

5. OLAF has uncovered a series of land frauds in Sicily despite the use of satellite technology to identify plots of land. Following this case, have checks been carried out elsewhere in Italy or in Europe on this same type of fraud?

Commission's answer:

The land frauds mentioned in the question refer to the operation “Nebrodi”, carried out by OLAF, Carabinieri and Guardia di Finanza in the Messina province against a wide criminal organisation called “Mafia dei Nebrodi”. The criminal proceedings, involving 133 natural persons and 151 legal persons, is still ongoing.

OLAF investigations also brought to light that claims for EU subsidies based on fake or forged documents had been submitted through the Agricultural Assistance Centres, which keep the farmers’ bookkeeping and introduce claims for EU agricultural subsidies in the national IT system. Such ineligible land requires that the Assistance Centres detect and report it. There were also examples uncovered by OLAF where the land had been obtained through violence, intimidation, corruption and other serious crimes and so the fraudsters were able to obtain formally correct titles to land and to claim for the aid.

6. OLAF concluded three investigations regarding direct payments in Slovakia in 2020. OLAF found that controls are very limited on whether the disposal of land by an applicant is lawful. The Slovak authorities only conduct checks in the case of double-claims. Why does the Commission not require the paying and auditing authorities to check for all area-based payments that the applicant has the land at their legal disposal to counter land grabbing and illegitimate applications (not only in Slovakia, but all Member States)? Would an automatic check be technically possible, e.g. by linking the LPIS with national registers on land ownership (not only in Slovakia, but all Member States)? Does the Commission conduct checks regarding the legality of land disposal of applicants/recipients in its own audits and controls?

Commission's answer:

According to EU legislation, the beneficiaries entitled to payment are those who claim and farm the land. Parcels declared by a beneficiary need to be at the farmer’s disposal on a given reference date fixed by a Member State and has to be used for an agricultural activity. Some Member States have systematically asked beneficiaries to provide evidence that they are legally entitled to claim and farm the land. Others ask only in case of a double claim. It is up to Member States to regulate this issue as recently confirmed by the European Court of Justice.

The Court of Justice ruled in case C-216/19 Land Berlin that the competent authorities can presume that the beneficiaries asking for aid have the related plots of land at their legal and actual disposal. Nevertheless, the European Court of Justice has also ruled that Member States have the obligation to put in place an effective control of the aid applications in order to prevent and correct irregularities.

Following this ruling, DG AGRI has issued a Note to Member States in June 2021. It explains that Member States should establish an effective control in the light of their national specificities to ensure that the land use is lawful and based on a valid legal title according to national law (including also tolerated de facto use when such a possibility is foreseen in national legislation). The note also recommends the Member States that in order to achieve this, the control designed should be targeted (for example to specific red-flag situations) and not just limited to obvious cases of double or conflicting claims.

In Slovakia, for example, the Action Plan implemented by the national authorities also includes actions for the improvement of the Land Registry (cadastre) including the way contracts related to the land (e.g. leases) are recorded and can be consulted when performing checks.

This Action Plan should be seen in the context of a series of obstacles for the efficient conduct of controls in Slovakia also highlighted in the context of a series of OLAF investigations: over fragmentation of land, multiple co-owners on the same parcel, non-reliability of the cadastre, very limited and optional registration of lease contracts in the land registry.

The Slovak authorities are aware of the situation, and engaged in 2019 to initiate several legislative and procedural actions (also in the context of the Action Plan). By Resolution no. 358 of 21 August 2019, the Slovak authorities initiated a broad land reform planned on a period of 30 years and which scope is to address the problem of over fragmentation of parcels, multiple co-owners of small parcels and update of the cadastre accordingly.

The Commission, through its audits, ensures that the implementation by the Member States ensures that the EU legislation is respected and that proper procedures are in place taking into account the above mentioned Note to the Member States in June 2021.

Finally, as regards the part of the question on LPIS, it should be noted that the purpose of LPIS as defined by the EU legislation is to identify the eligible land not the eligible beneficiary. The beneficiary entitled to payment are those who farm the land and have the land at their lawful disposal. Nevertheless, Member States could have national provisions to carry out checks also on the applicants/beneficiaries by using existing databases, including LPIS or land registers. The Commission has encouraged such practises in the above mentioned Note to the Member States on land at disposal.

In Slovakia, there is already a certain interoperability between the LPIS and the land ownership registry, which allows a cross-check between the ownership of an LPIS parcel and a cadastre parcel. However, the cross check is limited because it concerns only ownership and not lease of land, and also because the above listed obstacles. Further amendment are still needed in order to allow full registration of the lease contracts and ensure their interoperability with the LPIS. Hence again the Commission insistence on

remedial action in Slovakia. The Commission continues to monitor the situation in Slovakia closely.

It is also to be mentioned that administrative controls cannot substitute the criminal investigations required for the uncovering on frauds based on land grabbing and illegitimate applications. OLAF role in this context is therefore of paramount importance together with the European Public Prosecutor Office (EPPO) which has recently started operating.

7. How many cases of double-claims did the Commission detect in its audits concerning the financial year 2020? Which Member States were concerned? Please provide a list showing the number of double claims for each Member State and indicate whether the national paying agencies or certifying bodies had detected the cases or whether the Commission audit detected the double-claims.

Commission's answer:

The Commission carries out system audits, aimed at assessing the management and control system of the Member States, and in this specific case, whether the Paying Agencies have effective procedures in place to deal with these situations. Thus, Commission auditors do not check individual cases.

However, the control system put in place by the Member States allow to detect situations of double claims. In this context, by far the most important system is the Integrated Administration and Control System (IACS), which covers more than 80% of the CAP expenditure. This system enables the processing of the aid claims received by the Paying Agencies and provides for several eligibility checks including cross-checks between databases and on-the-spot checks.

Specifically, the farmers declare their land in agricultural parcels located inside fixed blocks of agricultural land in the LPIS. Where these blocks of land are of a considerable size, and the agricultural parcels are to be located inside the blocks, there is a higher occurrence of an incorrect determination of the position or the shape of the agriculture parcel, which is leading to overlaps between parcels declared by different farmers. However, these overlaps are detected through the administrative geospatial cross checks in the form of an error code for every farmer who is involved. This specific error, generated automatically from the IT system, prevents the overlapping area to be paid. Then, the MS undertakes an administrative procedure to resolve these issues. The above procedures are part of the control system which Commission services assess in its system audits.

In its audits, the Commission pays particular attention to the existence and functioning of the following key elements of the IACS: the implementation of the LPIS-GIS (Land Parcel Identification System – Geographical information system), the Geospatial Aid

Application (GSAA), the functioning of cross-checks, the quality of the on-the-spot checks, the correct payment and application of administrative penalties.

8. How DG AGRI intends to remedy to the fact that some national law do not require applicants to present any proof of entitlement to farm for plots of land for which a subsidy is claimed. As OLAF has uncovered such frauds not by the use of satellite technology, rather by cross- checking accounting documentation.

Commission's answer:

See also reply to Q6.

According to the EU legislation, the parcels declared by a beneficiary need to be at the farmer's disposal (but it does not require specific legal title to declare the land).

Some Member States have systematically asked the beneficiaries to provide evidence that they are legally entitled to claim and farm the land. Others ask only in case of a double claim. It is up to the Member States to regulate this issue, as recently confirmed by the European Court of Justice case law.

Nevertheless, Member States have the obligation to put in place an effective control of the aid applications in order to prevent and correct irregularities.

Following this, DG AGRI has issued a Note to the Member States in June 2021 explaining that Member States should establish an effective control in the light of their national specificities to ensure that the land use is lawful and based on a valid legal title according to national law (including also tolerated de facto use when such a possibility is foreseen in national legislation). In order to achieve this, the control designed by the Member States should be targeted (for example to specific red-flag situations) and not just limited to obvious cases of double or conflicting claims.

The Commission, through its audits, ensures that the implementation by the Member States ensures that the EU legislation is respected and that proper procedures are in place taking into account the above mentioned Note to the Member States in June 2021.

OLAF on the other hand ensures that criminal activities and serious irregularities are appropriately countered and sanctioned in accordance with its role.

9. In view of the information that has circulated on some misuse of agri funds in recent times, particularly in Italy, Slovakia, etc., have specific audits been conducted in these countries? And if so, for what results?

Commission's answer:

In its assurance process, the Commission verifies the effectiveness of the management and control systems in the Member States continuously through its multiannual plan of audit missions.

Numerous audits have been carried out, also as regards e.g. Slovakia, and the assessment of the deficiencies in the respective paying agencies is reported in DG AGRI's Annual Activity Report. Details on on-going audits cannot be disclosed in order to ensure a proper contradictory procedure in line with internationally accepted audit standards. Some details about audits conducted can be found below.

For **direct payments**, concerning Slovakia, audits have shown improvements in the quality of the information on the LPIS, which was an issue found in an audit carried out in 2017. As regards the issue of ownership /legal rights to cultivate the land, the Commission is following up on the measures taken and envisaged by the Slovak authorities as part of their action plan

For **market measures**, Italy and Slovakia have been audited in the framework of the multiannual work programme of DG AGRI.

In Italy, there are currently 7 ongoing audits (3 of them launched in financial year 2021), covering Producer Organisations, wine restructuring, promotion of agricultural products, sugar levy reimbursement and avian flu measures. In addition, one enquiry launched in financial year 2021 covering wine investment was closed.

In Slovakia there is one ongoing enquiry, launched in financial year 2020, covering wine restructuring and EU School Scheme.

For Slovakia, concerning **Rural Development** measures, DG AGRI audits in 2017 and 2018 identified deficiencies in eligibility checks and in public procurement procedures for several non-IACS measures. A financial correction was imposed for the deficiencies in public procurement. Another DG AGRI audit in 2019 detected deficiencies in cross-checks and on-the-spot checks for several IACS measures and further audits are planned. The Certification Body also had findings for IACS measures. The Slovak authorities have been requested to take remedial action in the form of an action plan in 2019 and have reported on its implementation addressing some of the deficiencies found. They have been requested in 2020 and 2021 to reinforce this action plan to address newly identified deficiencies. The ongoing conformity clearance procedures will ensure that the financial risk to the EU budget is covered.

Concerning the alleged corruption by former staff of the Slovak Paying Agency, the Slovak authorities are investigating this issue. DG AGRI closely cooperates with OLAF to ensure full coordination within the respective mandates.

Moreover, DG AGRI carried out a remote audit on Slovakia from 7 December 2020 to 22 February 2021. One of the objectives of the audit was to take stock of actions taken by the Slovak authorities to protect the financial interests of the EU. The audit is still ongoing.

Given the gravity of the allegations and an existing risk to the financial interests of the EU, the Commission took the precautionary measure of interrupting and consequently suspending 10% of the payments declared in all quarters of 2020 declarations for the concerned rural development investment measures (M4, M7, M8, M16), for which the calls have been published since 2016. DG AGRI proceeded to the increase of interruption of payments in the first two quarters of 2021 to 25% of the expenditure declared, justified by the gravity of the findings from its 2020 remote audit. Such interruption in the third quarter of 2021 is in progress.

In the context of the **annual clearance of accounts exercise**, the Certification Body is required to give an opinion on the Paying Agency's internal control system and its compliance with the accreditation criteria. Therefore, DG AGRI monitors at least annually the evaluation of the Paying Agency's internal control system, as well as any other issues that may compromise the Paying Agency's compliance with the accreditation criteria. In addition, in both Slovakia and Italy (in particular AGEA and ARCEA), accreditation audits were carried out by DG AGRI to examine the Paying Agencies' compliance with the accreditation criteria and their internal control system. In those cases, accreditation action plans were drawn up by the corresponding Competent Authorities and were implemented by the Paying Agencies to remedy the deficiencies identified.

At DG AGRI's request, the Slovak Competent Authority put the Paying Agency's accreditation under probation for a period of 12 months as of 15 October 2020 and drew up a plan to remedy deficiencies in the accreditation criteria

In addition, DG AGRI informed the Slovak authorities that the Paying Agency's accounts would not be proposed for clearance before 31 May 2021 for the EAGF and the EAFRD for FY2020 due to serious deficiencies that undermine the functioning of the internal control system and thus the Paying Agency's compliance with the accreditation criteria. In this context, a conformity enquiry is ongoing.

By letter dated 14.10.2021, DG AGRI recommended an extension of the probation period for 4 months (until 15/2/2022) to allow the full implementation and assessment of the accreditation action plan.

However, by decision dated 14.10.2021, the Slovak Competent Authority restored the accreditation of the PA as of 15.10.2021 until 15.10.2024.

A final assessment on the implementation of the action plan will be made under the ongoing accreditation enquiry, based on the information available and still to be provided by the Slovak authorities.

10. As several cases of allegations of misuse/malpractice of CAP funds have been brought to the attention of DG AGRI the last years, can we have more details about the use ARACHNE system and the way to impose it to all Members States ? How many paying agencies are using Arachne? Which countries or paying agencies are using the program Copernicus Sentinel?

Commission's answer:

The Commission recalls that it proposed the compulsory use of a single data-mining and risk-scoring tool. However, the final political agreement reached under the new CAP envisages the voluntary use of such tool “ARACHNE” as for the other shared management policy. However, the Commission will have an obligation to make the tool available to the Member States and is promoting and encouraging the use of the tool amongst Member States and highlighting its usefulness for checking circumvention, conflict of interest, etc. For CAP, there is moreover a review clause requiring the Commission to present, by 2025, a report which assesses the use of the single data-mining tool and its interoperability with a view to its generalised use by Member States, accompanied, if necessary, by appropriate proposals. While the use of the data-mining tool was not made compulsory at this stage, all texts (including the Inter-institutional Agreement – “IIA”) contain an obligation for the Commission to provide Member States with a single data-mining tool that they can voluntarily use for control and audit purposes, with a view to a generalised application by Member States. The Commission will keep doing its utmost to encourage the Member States to use this data-mining tool. The Commission intends to use the upcoming revision of the Financial Regulation, as the overarching regulation for the implementation and control of the EU budget, as another opportunity to enhance the protection of the EU budget against irregularities, fraud, corruption and conflicts of interest.

In the current period, 9 Member States are either already using (7 Member States) or testing (2 Member States) the tool for Rural development expenditure.

As to Copernicus Sentinel, the data is available to all Member States free of charge. A large number of Member States are using the data to supplement their controls on area-based payments. In addition, Member States may opt for the current system of Checks by Monitoring as an alternative to the traditional on-the-spot checks for area-based payments. Checks by Monitoring is based on Copernicus imagery and is currently implemented in 10 Member States. The EU-funded NIVA (A New IACS Vision in Action) project is based on interactive planning to ensure faster turnaround, increased flexibility and further participation of stakeholders. The project is undertaken by nine EU

member administrations at national, multi-national and pan-European levels. It aims to accelerate innovation, diminish administrative obstacles, support cooperation in an innovative environment, and increase the flow of information to all stakeholders. In the new CAP, the Area Monitoring System, which will be mandatory for all Member States, builds on the automatic part of the existing Checks by Monitoring and will again use as a main source of information the Copernicus imagery.

11. One of ECA's recommendation in 2019 was related to the need of more frequent update of the CAP fraud risks, analysis of Member States' fraud prevention measures and dissemination of the best practices in the use of the Arachne tool. The timeline for implementation of this recommendation was 2021. In DG AGRI AAR 2020, it is stated that the Commission is already taking the necessary steps to implement it. Could Commission give more details about the progress in implementing the recommendation related to the fraud risk analysis and prevention measures? What concrete actions were taken?

Commission's answer:

The DG AGRI fraud risk assessment was performed in 2016 and shared with all the Member States. Since then, every year, DG AGRI has conducted an assessment to see if fraud patterns had changed and if a review the 2016 fraud risk assessment was necessary and always concluded in the negative.

However, in light of the CAP reform that will kick in on 1.1.2023, a review of the 2016 fraud risk assessment is planned for 2022 so to be ready in time for the start of the application of the reformed CAP.

Fraud prevention measures taken by the Member States are part of the accreditation criteria for Paying Agencies and are therefore regularly checked by the Certification Bodies in their annual activities and reports. DG AGRI audits related to accreditation also include the review of such measures in their scope.

In the past year, the Commission has continued to promote the use of ARACHNE and the dissemination of best practices amongst Member States and highlighting its usefulness for checking the eligibility of applicants, risks of double-funding, fraud, conflict of interest, etc. See also reply to Q10 on ARACHNE.

12. Concerning the use of Arachne in the CAP, the Commission has supported extending the use and capabilities of such a tool. The negotiations of the CAP reform has resulted in it being mandatory for the Commission to make this tool available to Member States from 1 January 2023 and Member States will be encouraged to use this tool. How many member States are using this tool by now?

Commission's answer:

In the current period, 9 Member States are either already using (7 Member States) or testing (2 Member States) the tool for Rural development expenditure. See also reply to Q10.

13. Can the Commission provide an overview of the percentage share of irregularities reported within IMS for the European Agricultural Guarantee Fund and European Agricultural Fund for Rural Development under the reporting threshold of €10 000 of the total irregularities detected for all member states? And of these irregularities below the threshold were qualified as suspected fraud per member state by percentage?

Commission's answer:

OLAF is the responsible service for IMS. For about 1.7% of the CAP irregularities reported during the period 2016-2020, the financial amounts involved were equal or less than EUR 10,000 (excluding irregularities for which the financial amount involved is zero while they are still open, as the estimation of the financial impact may still be pending). About 16% of those were reported as fraudulent.

14. How many cases of misuse of the EAFRD budget line to build private villas disguised as guesthouses is the Commission aware of? For each of the cases listed, please indicate the Member State concerned, the amount of EU funding involved and the measure taken by the Commission and/or national authority in that case.

Commission's answer:

The Commission does not have such an inventory of information available, since the Commission's audits are system based, and not referring to individual irregularities as the CAP is implemented in shared managed.

The Commission has however carried out a number of audits covering the Rural Development measures under which guesthouses could be financed.

It is recalled that most of the productive investments financed during programming period 2014-2020 are still within the minimum durability period of 5 years, according to Article

71 of the Common Provisions Regulation. Moreover, it is important to note that the legal obligation of the beneficiary expires after 5 years and that the regulatory basis does not require further controls beyond that period.

For the 2014-2020 programming period, guesthouses were financed, together with other types of investments, under Rural Development sub-measure 6.4 (investments in creation and development of non-agricultural activities). The Commission carried out 21 audits, in 10 Member States (MS) (BG, CZ, EE, GB, GR, HU, IT, LT, LU, SE), covering this sub-measure, and in 8 of these audits (7 MSs: BG, CZ, GB, GR, HU, IT and RO) guesthouses projects were part of the sample (it is to be noted that for BG the audit concerned a project linked to transitional expenditure from the previous programming period, as BG did not refinance this sub measure in 2014-2020 programming period). In 4 MSs (CZ, GR, RO and HU) the Commission had findings linked to the appropriate procedures to detect and deal with the creation of artificial situations to receive the aid. For 2 MSs the findings were clarified in the framework of the contradictory procedure, whereas for 1 MS the finding was maintained, but deemed not systemic (creation of artificial conditions in one file - not systemic). For the fourth audit, the contradictory procedure with the Member State is still ongoing.

For the 2007-2013 programming period, the Commission audited the measures financing guesthouses in 10 Member States (BG, CZ, FI, FR, HR, HU, IT, LT, LV, RO) and in two of these Member States weaknesses in the implementation of appropriate procedures to detect and deal with the creation of artificial situations to receive the aid were detected (BG, RO). For Romania the findings did not require a financial correction but only a recommendation for improving the control system. For Bulgaria the findings resulted in a financial correction covering 9 projects and in a recommendation to increase the control rate.

The Commission is closely monitoring the national authorities' investigation in cases of misuse of funds on guest houses which have been detected.

Questions concerning audit-related issues

15. What are for your DG the most expected improvements from the certification agencies in terms of regularity and legality?

Commission's answer:

The Certification Bodies represent one of the main elements for DG AGRI's assurance building model where each upper layer builds its work on the results of the previous layer and where each layer may use the results of the upper layer to improve its own controls. The Single Audit Approach, where the starting point and main focus is the work of the Certification Bodies and the Paying Agencies are not audited when the Certification

Body's work is sufficient and reliable, has been fully implemented for the CAP as from financial year 2019 onwards. Based on its audits on the Certification Bodies and the review of their annual reports, the Commission considers that the Certification Bodies delivered better-substantiated results for financial year 2020 on the legality and regularity of the expenditure compared to the previous 5 years and the overall reliance on their work has increased. The update of the relevant Guidelines to the Certification Bodies, applied fully as of financial year 2019, focused more on the Paying Agencies' Internal Control System assessment. The Certification Bodies have increased their reporting on issues related to deficiencies in key controls of the Paying Agencies' system, on follow up of recommendations and implementation of action plans the last two years and the Commission expects continuous improvements in their work the following years.

In the Annual Activity Report for DG AGRI the Commission reports every year on the findings of the Certification Bodies. Evidently, as the Certification Bodies since financial year 2015 have had to do work on the legality and regularity of expenditure this means that there is an increased audit of the Member States implementation of the CAP. The work of the Certification Bodies is considered to have also contributed to the decrease in the error rate for CAP expenditure.

16. In 2020, the number of Paying Agencies under reservation is the same as last year (17), and the estimated amount at risk is at the same level. Why there is no progress? what corrective measures have been taken?

Commission's answer:

AGRI: In the 2020 Annual Activity Report (AAR), DG AGRI reported 56 reservations. Compared to 2019 AAR, there was an increase in the total number of reservations (56 for 2020, 45 for 2019) and the corresponding amount at risk is higher (EUR 1.14 billion for 2020; EUR 1.10 billion for 2019). The number of Paying Agencies under reservation for Direct Payments remained however unchanged (17). Despite this increase in the number of reservations, in the 2020, the error rate of the CAP remained for the second year below the materiality threshold at 1.93%% (1.89% in 2019) and for Direct payments, the adjusted error rate of 1.57% was the same as that of 2019. This shows that a high number of reservations is not necessarily to be seen as problematic and confirms DG AGRI's close monitoring of the situation in the Member States and the UK and the fact that the Commission transparently reports on all issues.

Please note that while the total number of Paying Agencies under reservation may not have changed, the Paying Agencies that are actually under reservations change from year to year. This shows that the weaknesses found in certain Paying Agencies in 2019 have been addressed successfully and also that the Commission's detailed analysis, at the level of each Paying Agency, allows it to identify exactly where the issues are, closely monitor their follow up and transparently report on this. DG AGRI's Annual Activity Report

presents yearly the Commission's assessment of the Paying Agencies, together with their estimated adjusted error rate for each spending areas and the proposed mitigating measures.

In the framework of the follow-up of the reservations introduced in the DG AGRI AAR 2020, the Commission sent requests to submit or update remedial action plans addressing the deficiencies found, to the concerned Member States and their replies are currently being analysed by DG AGRI.

17. ECA repeatedly concluded that the controls by national paying agencies and certifying bodies are insufficient and not fully reliable. The discharge report 2019 therefore called on the Commission to conduct a thorough analysis of the underlying reasons and structural problems causing the persisting systemic weaknesses identified by the Court and address clear, practical and readily implementable horizontal as well as country-specific recommendations to the national authorities and share the results with the discharge authority (see paras 30, 333, 366). Did the Commission conduct such an analysis? If yes: what were the findings, results and recommendations? Did the Commission detect any specific patterns across the managing and certifying authorities in different Member States? How was the cooperation with the national authorities? If no: why did the Commission not conduct such an analysis and when does it intend to do so?

Commission's answer:

Regarding the work of the Certification Bodies, the Commission notes that their work has further improved in 2020, as they delivered sound and substantial results from auditing the legality and regularity of the expenditure on all populations compared to previous years. The Certification Bodies' reports contain more substantial and valuable information on the legality and regularity of expenditure, which was taken into account for the assessment of the adjustments to be made to the error rates reported by the Paying Agencies. The Commission notes that in some cases, weaknesses in the reliability and quality of the work by the certification bodies were detected during its own audits. In all these cases, appropriate recommendations were addressed. The implementation of the recommendations is continuously followed up by DG AGRI and this has, in most cases, a positive impact on the reliance that can be placed on the certification bodies' work. Apart from the audit missions carried out by DG AGRI, every year in the context of the annual financial clearance exercise DG AGRI conducts a thorough analysis of the work of the Certification Bodies work. The result of the annual assessment of the certification bodies' work is published in DG AGRI's Annual Activity Report. Whenever the weaknesses identified during the Commission audits are considered as horizontal, they are presented and discussed in the Expert Group Meetings where appropriate guidance is provided for the further improvement of the certification bodies, with which there is a very constructive cooperation. Moreover, if the weaknesses indicate a structural problem

(Certification Bodies' limited resources or late appointment, etc.), the recommendations are addressed to the relevant Competent Authority in the Member State concerned.

The Commission takes this opportunity to recall that CAP spending is managed under shared management and it is the Member States' responsibility to ensure that the Certification Bodies have the necessary resources and skills in order to perform their tasks. The Commission will continue to support the Member States as outlined above.

Concerning the work of the Paying Agencies, the Commission would like to point out that it presents in detail every year, in the Annual Activity Report, its assessment of their work for each of the spending areas. Annex 7 of DG AGRI's Annual Activity Report details the weaknesses identified, the measures taken and, where needed, the reservations proposed based on the adjusted error rate of each Paying Agency. Where needed, in order to remedy the deficiencies identified, the Commission requests the Paying Agencies to put in place Action Plans and closely monitors their implementation.

18. According ECA Annual Report 2020, most of the errors (54%) are related to the Ineligible beneficiary/activity/project/expenditure (p. 169). How is that such errors are not detected earlier by the Member States' authorities or the Commission? How come the transactions are approved if they are ineligible? What are Commission's actions in order to avoid these type of errors? Did Commission perform an analysis evaluating in which Member States the number of such errors is the highest and additional actions (e.g. trainings, control checks etc) were taken to prevent this kind of errors?

Commission's answer:

The Commission would firstly like to recall that the error rate in the CAP spending is low (1.93%), which is also in line with the ECA's error rate estimation (2.0 %) in Chapter 6 of the Annual Report.

A certain level of error is inherent in the system, so a "zero error" situation is not attainable at reasonable cost. The error rate detected by the ECA and by DG AGRI reflects errors which have not been detected by the Member States' authorities.

Whenever significant deficiencies have been identified in the Member States' management and control systems by DG AGRI, the certification bodies or ECA, action plans are put in place to address these deficiencies. These action plans may include preventive actions like information campaigns, trainings and advice for beneficiaries as well as trainings and workshops for administrative staff. The Commission is monitoring the implementation of the action plans on the basis of the report by Member States.

Moreover, the Certification Bodies should review the progress in the implementation of such actions plans and report to the Commission through their annual certification report. The Certification Bodies' work regarding the follow up of action plans agreed between the Commission and the Member States is systematically reviewed during the annual

financial clearance exercise and during the missions carried out by the Commission to review the Certification Bodies' audit strategy and work on Legality & Regularity.

The Commission takes also further actions to address errors where they persist:

- providing guidance, fostering capacity building and exchange of best practices and streamlining the legislation;
- encouraging the use of less error-prone tools such as Simplified Cost Options;
- monitoring the quality of the Integrated Administration and Control System (IACS) and the Land Parcel Identification System (LPIS);
- regularly exchanging information with the Member States including on allegations of irregularities.
- Assessing and approving modifications of the Rural Development Programmes.

Simplification of rules contributes to preventing errors. In the future, the New Delivery Model should contribute to this objective and allow Member States to design the interventions to their needs.

DG AGRI's Annual Activity Report presents the Commission's assessment of the Paying Agencies, together with their estimated adjusted error rate for each spending area and the proposed mitigating measures.

19. When the Commission detects weaknesses in the management and control systems in one Member State, does it adapt its general guidelines for all Member States with generalised recommendations tackling this specific weakness?

Commission's answer:

The general guidelines applicable to all MS are updated in cases where the weaknesses detected imply that more guidance is required to tackle specific issues. As regards weaknesses detected in the management and control systems, conformity enquiries are launched following-up the financial consequences for each specific case. The guidelines set out guidance as regards the control systems, financial corrections and audit methodologies.

As regards checks and controls by the Member States, general guidance is formalised and easily accessible thanks to several documents published online, such as the Question and Answer document on the use of Checks by Monitoring, which has been recently revised, reflecting the recent amendments to Regulation (EU) No 809/2014. Another example of guidance documents, is the Note to the Member States issued by DG AGRI in June 2021, mentioned above, explaining that Member States should establish an effective control in the light of their national specificities to ensure that the land use is lawful and based on a valid legal title according to national law.

In addition, the Commission is also providing guidance to the Member States by developing guidance documents addressing challenging issues, such as conflict of interest. The Commission is also organising frequent meetings to discuss with the responsible bodies in the Member States (Paying Agencies/Ministries). For example, since 2013, nine seminars on error rate in rural development have been organised. Since 2020, a dedicated session in the Rural Development Committee on the updates on Action Plans and the latest conformity findings has replaced these seminars.

20. In view of the number of AGRI programs under shared management, what measures have been put in place in conjunction with the Member States to reduce the error rate?

Commission's answer:

The Commission recalls that the error rate for CAP expenditure overall is low. Every year Member States report on error rates within the annual assurance package including the management declaration.

The measures put in place in conjunction with Member States include remedial actions requested by the Commission based on findings in audits. Remedial action is also asked from Member States which have themselves detected a high error rate in its control. Furthermore, the Certification Bodies recommend remedial action based on their findings. In case of high error rates and systemic deficiencies, DG AGRI requests an Action Plan in which the main steps and a timeline are agreed upon together with the Member State concerned.

Those action plans are followed up through DG AGRI's supervision. In addition, when error rates are not confirmed by the Certification Bodies in their annual report and opinion, the remedy of the underlying weaknesses of the internal control system of the Paying Agencies is followed up by DG AGRI through conformity enquiries.

In this respect, an audit methodology to get certified error rates has been put in place since 2015 to set the basis for the Single Audit approach.

DG AGRI has also taken action to address the root causes of errors in the CAP.

This is further detailed in part 3.4 of Annex 7 of the DG AGRI AAR 2020. For both CAP funds, the continuous decrease in error-rates is due to the efficient management and control systems applied, in particular the Integrated Administration and Control System (IACS).

21. In view of the number of AGRI programs under shared management, what new measures have been put in place in conjunction with the Member States to reduce the error rate?

Commission's answer:

Please see reply to question 20.

In 2020, the Transitional Regulation was adopted¹ and included among others, **two amnesties for payment entitlements**. The first general amnesty was deemed necessary as in 2015, at the allocation of payment entitlements or at the recalculation of payment entitlements for Member States keeping existing entitlements under Regulation (EU) No 1307/2013, some Member States made errors. In the light of the time elapsed since the first allocation, the efforts made by Member States to establish, and where relevant, to correct entitlements, and also in the interest of legal certainty, the number and value of payment entitlements will now be considered legal and regular with effect from 1 January 2021. The second one applies to specific payment entitlements (when Member States applied a reduction coefficient to eligible hectares consisting of permanent grassland located in areas with difficult climate conditions). To stabilise the system currently applied in those Member States, and with a view to ensuring legal certainty for all farmers in the Member States concerned as early as possible, the Member States concerned are able to consider retroactively legal and regular the value and number of all entitlements allocated to all farmers before 1 January 2020.

Also in 2020, DG AGRI adapted its working methods to respond to the **COVID-19 restrictions** and addressed the impact of the COVID-19 crisis through a series of measures described in section 2.1 of this Annual Activity Report. The amended rules were limited in time and scope and proposed alternative methods to carry out the controls by the Member States².

The Guidance on rural development control and penalties was also amended and updated in 2020 in order to incorporate latest legislative changes.

DG AGRI has reinforced its actions to inform the responsible bodies in the Member States about applicable rules under Direct payments and their implementation and has also continued to develop and amend guidance documents addressing problematic issues.

Other technical guidance, established in co-operation with the Commission's Joint Research Centre (JRC) has also been provided, on e.g. the implementation of a pro-rata system for permanent grassland or more technical features of on-the-spot controls for greening (e.g. on measurement of EFA or on the control of crop diversification), the LPIS upkeep and the LPIS QA methodology execution.

¹ Regulation (EU) 2020/2220 of the European Parliament and the Council of 23 December 2020

² Possibility to replace physical inspections and on-the-spot checks under Direct Payments, Rural Development and markets support measures with alternative control evidence, such as geo-tagged photos, satellite images, documents, video meetings, etc.

Finally, several expert group meetings on direct payments have taken place in 2020, notably dedicated to modernisation and simplification of IACS for Member States willing to start or already implementing the checks by monitoring approach.

Further details are provided in part 3.4 of Annex 7 of the DG AGRI AAR 2020.

22. In 2020, what was the total amount of financial corrections requested from the paying agencies?

Commission's answer:

In 2020, the Commission adopted 3 conformity ad-hoc decisions published in the Official Journal, covering 92 individual net financial corrections for a total amount of EUR 501.751 million, out of which 390.471 for EAGF and 111.280 for EAFRD.

Further details can be found in section 2.1.1.3. of the DG AGRI Annual Activity Report 2020.

23. When will the audit examining alleged conflicts of interest in the implementation of the common agricultural policy in Czechia be made publicly available? If it will not be published, why does the Commission consider the public interest in transparency and information not as reasonable grounds for publication for this audit, even though a similar audit by DG REGIO and DG EMPL was published on these grounds?

Commission's answer:

The publication by the Commission of the final audit report for the European Regional Development Fund and the European Social Fund was exceptional since the audit rules and administrative practice do not require such publication. The Commission services made that report public only once the audit was finalised, taking into account the great public interest in these audits, including a request by the European Parliament's CONT committee and a European Ombudsman recommendation.

The conformity procedure and the audit carried out by DG AGRI are still ongoing, therefore the documents cannot be made public. An assessment of the situation and of the main reasons justifying such a publication will be performed at the end of the procedure. Any Commission decision on financial corrections will be made public as is the case for any financial corrections decided by the Commission.

24. How many audits into possible conflicts of interest in the use of agricultural funds under shared management have been conducted last year, and how many of these are still ongoing?

Commission's answer:

Procedures to prevent, detect or mitigate conflict of interest is verified in all cases where there are specific regulatory provisions in this regards.

For Rural Development they exist in case of Leader (Article 34.3 letter b) of Regulation (EU) no 1303/2013) and in case of Public procurement (Article 24 and others of Directive 2014/14).

DG AGRI carries out system audits following a single audit approach.

Concerning financial year 2020, 6 enquiries have been conducted by DG AGRI covering among other issues the risk of possible conflict of interest (either in public procurement or in Leader). Three of them are still ongoing for the part concerning the issue of conflict of interest.

For market measures, in 2021, DG AGRI carried out an audit focusing on conflict of interest for wine investment in Croatia. This enquiry was closed without findings.

The financing, management and monitoring system of the CAP ensures that Paying Agencies should comply with minimum conditions with regard to internal environment, control activities, information and communication and monitoring in order to be accredited (Annex I of Regulation 907/2013 - [accreditation criteria requirements]). By following these requirements, the Paying Agency should put in place an internal control system, which provides sufficient guarantees that payments are legal and regular and properly accounted for. Specific measures to prevent, detect, deter and correct potential conflict of interests and potential fraud are included in these requirements in the context of the internal environment (*human-resources standard* and of the *control activities* and *ongoing monitoring*, as regards the *authorisation of claims*). These accreditation criteria are verified in a pre-accreditation review (as stated in Article 1 of Regulation 908/2014) and assessed on an annual basis by the Certification Body and DG AGRI in the context of the annual clearance of the Paying Agencies' accounts. In addition, the procedures in place to prevent and detect conflict of interests and to follow-up on such cases, are also examined by DG AGRI in the context of accreditation audits carried out to the Paying Agencies. Accreditation audits performed in the last 3 years: 3 in 2021, 3 in 2020 and 2 in 2019.

25. How does the Commission assess the performance of the paying agency in the Czech Republic during 2020, in light of Czechia's Supreme Audit Office's recent detections of shortcomings in the management and distribution of EU funding? (https://www.euractiv.com/section/politics/short_news/czech-auditors-eu-fund-management-poses-risk-for-recovery-plan/)

Commission's answer:

For financial year 2020, for Rural development expenditure, the potential financial risk calculated by DG AGRI for the Czech Paying Agency was above the materiality threshold. Therefore, DG AGRI considered that a reservation was necessary. For direct payments, no reservation was issued, as the potential financial risk was below 2%, i.e. the materiality threshold.

Concerning the Rural Development – IACS measures, the Czech national authorities have reported a high error rate for on-the-spot checks, mainly caused by non-compliance with the measure specific commitments for Measure 10 (Agri-environment Climate), Measure 11 (Organic farming) and Measure 15 (Forest-environmental and climate services and forest conservation). Therefore, DG AGRI asked the Czech authorities to implement an action plan addressing the underlying causes of this reported high error rate.

Concerning the Rural Development – Non-IACS measures, DG AGRI carried out a coordinated audit with DG REGIO and DG EMPL in 2019. In the framework of this audit, DG AGRI assessed the investment measures under EAFRD (Non-IACS) and identified deficiencies. DG AGRI asked the Czech authorities to implement an action plan addressing these deficiencies.

In addition, DG AGRI is not reimbursing the Czech authorities the amounts related to EAFRD projects that could be potentially affected by conflict of interests. The conformity procedure for this audit is still ongoing and will ensure that the financial risk to the EU budget is covered.

Questions concerning the use of new technologies

26. The Court of Auditors presented a 4/2020 report on the use of new imaging technologies for the CAP. In 2019, 15 paying agencies in 5 states used Sentinel data. What initiatives are being taken to ensure that more countries use these techniques? What are the remaining obstacles preventing more countries from using these technologies? What strategies are being put in place to increase the use of new technologies and more "follow-up checks" by paying agencies?

Commission's answer:

The Commission is actively supporting Member States in taking the decision to opt for checks by monitoring (CbM). Significant efforts are committed to offer guidance in conferences or seminars and in bilateral meetings. General guidance is formalised and easily accessible thanks to several documents published online, such as the Question and Answer document on the use of CbM, which has been recently revised, reflecting the recent amendments to the Regulation (EU) No 809/2014 fine tuning the legal framework to maximise potential benefits for Member States choosing to opt for CbM.

CbM necessitates the processing of large amounts of Sentinel satellite data, which is increasingly carried out in cloud-based IT environments. Since 2019, the Commission provides free access of the Copernicus Data and Information Access Services (DIAS) to Member States operationally using CbM. In 2020, this offer was expanded to Member States signalling a need for the testing of algorithms and processing chains in view of their planned adoption of the CbM approach. Training events explaining the setup of these cloud services as well as the use of a suite of DIAS programming tools that the Joint Research Centre (JRC) of the European Commission has developed and made freely available to MS were organised in 2020 and 2021.

In parallel, the European Commission pursues its 2021 CbM outreach effort, which aims at overcoming perceived or actual limitations in the use of Sentinel satellite data for the purpose of CAP monitoring. 19 Member States are participating in this effort. In practice, the participating Member States first express their needs, and then provided the Joint Research Centre with relevant parcel data for the concerned regions before working with the JRC to prototype processing solutions and test these on the selected regions using the DIAS cloud environments.

While the automatic processing of satellite data may yield non-conclusive outcomes, the number of these – so-called ‘yellow’ – cases should not be equated with the number of non-compliant cases. A non-conclusive case is merely one where there is no (or not enough) tangible evidence available to make a judgement. Experience with CbM has shown that the occurrence of ‘yellow’ cases is typically less than 10-15% and in some cases much lower than this (i.e. 1-3%). In contrast, classical on-the-spot-checks do not

visit 95% of the concerned population and thus it is the sample-based controls that have more 'yellow' cases than the Checks-by-Monitoring control approaches.

In addition, the Checks by Monitoring framework does foresee adequate follow-up procedures to deal with 'yellow' cases. As such, it is the aim of the Commission to reduce the number of interventions and eligibility conditions that cannot be monitored with new technologies. This strategy is fully in line with the recommendation of the European Court of Auditors (in their special report 04/2020), that is, to expand the use of satellite-based controls and to enable also the monitoring of environment and climate related requirements.

In the future CAP, the Area Monitoring System (AMS) will become a mandatory new element of the Integrated Administration and Control System (IACS) from 2023 onwards. Its primary data source will be Sentinel satellite data. However, the AMS will allow Member States to also use digital non-Sentinel data sources (such as geotagged photos or drone imagery) to expand the range of eligibility conditions that can be monitored. This will increase overall assurance and ensure a reliable reporting of performance indicators. In particular, because of the mandatory annual quality assessment of the AMS.

Throughout 2021, and in an effort to remove uncertainty, the Commission has proactively informed Member States on the scope of the AMS and its quality assessment. While these exchanges are ongoing, the Commission is already in the process of ensuring free DIAS access in 2022 to all Member States that wish to prepare for the Area Monitoring System. At the same time, the Commission also continues its support to Member States via relevant Committee or expert group meetings as well as bilateral meetings & exchanges.

27. In its Special Report 4/2020 on the use of new imaging technologies to monitor the CAP, ECA found that paying agencies expect further guidance from the Commission to take the right decisions and reduce the risk of financial corrections. What guidance did the Commission provide and has this affected the amount of errors/financial corrections?

Commission's answer:

In terms of guidance, the Commission continues to support Member States and address their concerns or questions via relevant Committee or expert group meetings as well as via bilateral meetings. In addition, the Commission has recently revised and further expanded its practical guidance (or Question & Answer) document on the use of 'Checks by Monitoring' (CbM), reflecting the recent amendments to the Regulation (EU) No 809/2014 fine tuning the legal framework to maximise potential benefits for Member States choosing to opt for Checks by Monitoring

One element that is relevant for the assurance provided by the CbM approach is the development of a quality assurance methodology for CbM. This was one of the recommendations of the European Court of Auditors' special report (04/2020) on the use of new imaging technologies for CAP monitoring. The European Commission's Joint Research Centre has been working closely with Member States and auditors to develop such a quality assurance methodology. Member States carry out a self-assessment allowing to diagnose whether decisions taken by algorithms on individual eligibility criteria, or across all eligibility criteria of a given aid scheme or measure exceed a predefined tolerance level. Current efforts focus on the quantification of the combined error arising from all incorrect decisions (whether based on automated satellite data processing or not) for all of the aid schemes and measures covered by the Checks by Monitoring implementation in a Member State. This will also be highly relevant for the quality assessment of the future Area Monitoring System.

The Commission has audited in 2019 three Member States implementing for the first time the checks by monitoring and no financial corrections were proposed. In 2021, several audits enquiries were launched in Member States that implement the checks by monitoring. These audit enquiries are still on-going.

During its audits, the Commission does not only verify the compliance with the applicable legislation, but also enters in discussion with the Member States to provide advice and guidance on specific elements of the system put in place by the Member State. This, with the objective to achieve a better implementation of the legislative requirements across the Union.

In its 2020 Annual Report, the European Court of Auditors reported on its review of the paying agencies' use of Checks by Monitoring in two cases, indicating that these paying agencies had used checks by monitoring to prevent a number of overpayments.

28. Member State paying agencies may perform „checks by monitoring“ using automated processes based on the Copernicus programme's Sentinel satellite data to check compliance with CAP rules. Paying agencies mainly use this to assess area-based aid claims under direct payment schemes. ECA recommended the Commission to promote checks by monitoring. How is the Commission promoting a broader use of satellite data? Could satellite data and monitoring be used for other checks, e.g. to monitor compliance with greening and biodiversity requirements? How could satellite data be used to monitor performance of the CAP (e.g. development of biodiversity in certain areas to assess performance of biodiversity targets and KPIs)?

Commission's answer:

The Commission in its proposal for an Area Monitoring System (AMS) offers Members States the possibility to choose among different types of new technologies rather than imposing a specific method or approach to monitor the eligibility conditions of interventions – designed by Member States with the specificities of their territories and

agricultural sector in mind. While Sentinel satellite data will remain the primary input data source for the AMS, other non-sentinel data source may also be used if they are available in a systematic manner for all of the concerned parcels and capable to resolve a given eligibility conditions. Non-Sentinel input data sources for the AMS are expected to be particularly relevant when spatial detail is required that cannot be captured with the 10 metre spatial resolution of the freely available Sentinel 1 and 2 satellites.

Specifically, the increasing availability of geotagged photo Apps – e.g. secure smartphone applications to capture images with metadata information on where and when the image was taken – when combined with increasingly powerful machine learning techniques will be capable to automatically provide information on a large range of conditions currently not addressed by the Checks by Monitoring approach.

With these multiple input data sources in mind, the future Area Monitoring System (AMS) will cover most if not all of the area-related interventions relevant for performance reporting. The AMS thus will ensure that aid claims relating to non-compliant interventions will be identified and subsequently rectified or removed by the concerned beneficiary. The AMS - and with it satellite monitoring - thus will increase the quality of the reported area-based output and results indicators. The quality assurance of the AMS (and other IACS elements), will not only serve to identify points of attention to improve the effectiveness of the system, but will also allow to estimate the area error of the reported performance indicators, which will trigger appropriate follow up action where needed.

29. The ECA annual report illustrated that selected paying agencies were able to use checks by monitoring to prevent a number of overpayments. Yet, the coverage by this method remained limited in 2020. Which measures is the Commission taking to promote the use of automated processes based on satellite data by Member States?

Commission's answer:

The satellite-based Checks by Monitoring approach is optional in the current CAP. Commission services have been actively promoting the functioning and advantages of the Checks by Monitoring approach (via bilateral meetings with Member States, via the Horizon 2020 funded 'New IACS Vision in Action' (NIVA) project, via the Joint Research Centre's 2021 Checks by Monitoring outreach effort and in relevant Committee or Group of experts meeting).

In 2021, the number of Member States opting for Checks by Monitoring has doubled with respect to 2020, that is: it increased from 5 to 10 Member States. Some of the earlier adopters of the Checks by Monitoring approach are now also using satellite observations

to monitor rural development measures. This decision is at least partly due to the benefits gained by covering both pillars with the Checks by Monitoring approach.

Relevant in this context may also be the fact that Member States will have to set up and operate an Area Monitoring System (AMS) from 2023 onwards. The AMS is a new and mandatory element of the Integrated Administration and Control System (IACS). It will monitor area-related interventions (across both pillars) using Copernicus Sentinel satellites as its primary input data source. In 2023 the AMS shall as a minimum cover all relevant eligibility conditions for Basic Income Support for Sustainability as well as for interventions addressing Natural or other area specific constraints. The Horizontal Regulation foresees that the AMS is 'fully operational' in 2024, thus expanding the automated satellite processing to other area-based interventions and eligibility conditions. This in a nutshell will dramatically increase the automated processing of satellite data for CAP monitoring purposes in the EU.

30. If a Member State uses satellite monitoring at a higher resolution than the scale of 1:5000 as required under the CAP the higher resolution of the pictures can lead to different calculations of eligible land than if the scale of 1:5000 were used. Does the Commission in its audits apply the national scale or the scale of the CAP? If the higher resolution pictures show a smaller area of eligible land than the scale of 1:5000, does the Commission apply financial corrections on the difference? If yes, does this not lead to a discrimination of beneficiaries in Member States that apply "gold plating" in the form of a higher resolution pictures?

Commission's answer:

For deciding if a Member State has made undue payments by accepting areas of ineligible land, the Commission applies in its audits for all Member States the thresholds that are stipulated in the Regulations and Guidelines. As such, no discrimination of beneficiaries occurs.

31. The Commission has committed itself to providing support to the Member States in developing the new approach of checks by monitoring. In 2019 the use of checks by monitoring was still not largely used by Member States (15 paying agencies in five Member States). Could Commission provide data how many paying agencies were using checks by monitoring in 2020 and in how many States?

Commission's answer:

In 2019 and 2020, the Checks by Monitoring approach was used by the same 5 Member States (Italy, Spain, Denmark, Belgium-Flanders, Malta). However, in 2020 there were 5 more paying agencies opting for Checks by Monitoring (ES). In addition, the number of

aid schemes increased in both ES and IT, with ES also introducing several rural development measures (in some of its autonomous regions) to the Checks by Monitoring approach. In 2020, both Italy and Spain furthermore expanded the territory covered under the interventions introduced to CbM in 2019.

In 2021 the number of Member States opting for Checks by Monitoring increased to 10. New Member States were Germany (with its 3 Laender: Schleswig-Holstein, Brandenburg, Sachsen-Anhalt), Croatia, Portugal, Lithuania, Ireland. In addition, the Belgium-Wallonia also opted for Checks by Monitoring.

32. Area under Satellite Monitoring, defined as the ratio between the basic payment scheme (BPS)/ single area payment scheme (SAPS) hectares covered with checks by monitoring or the Area Monitoring System, has an interim milestone equal to 10% in 2022. Based on Member States' notifications for checks by monitoring in 2021, the uptake is well on track to meet this interim milestone. Beyond 2022, the use of the Area Monitoring System becomes mandatory which is expected to rapidly increase the area under satellite monitoring. Do you expect all Member States to be ready to use this tool by 2022? What steps Commission is taking to facilitate the progress?

Commission's answer:

The Area Monitoring System (AMS), which shall become operational from 1 January 2023, hinges on the automatic processing of satellite imagery as its primary input data. In other words, the automated Sentinel data processing techniques that Member States develop under the current Checks by Monitoring (CbM) approach will remain valid and usable for the AMS. Each year the Commission encourages early adopters of CbM to present their results and lessons learned so that other Member States may benefit from this. In addition, the Commission offers free access to the Copernicus Data Information and Access Services (DIAS) for Member States that 1) have opted for CbM, 2) prepare for the use of CbM or – from 2022 onwards – 3) prepare for the setting up of the AMS. In parallel, the Joint Research Centre currently conducts a CbM outreach effort - specifically focusing on mowing, grazing and bare soil/green cover detection – in order to provide Member States with the necessary processing tools and IT knowledge to be able to achieve at least the minimum requirements for the introduction of the AMS in 2023. The Commission furthermore organised a webinar on the use of JRC-developed programming tools for the analysis of Sentinel satellite data in cloud-based environments such as DIAS, as well as another webinar on the state of play concerning the acquisition and automated analysis of non-satellite input data for the AMS (ie, geotagged photos and drones imagery). These events were well attended and offer a platform for Member States and Commission Services to share their knowledge and experiences and/or to become aware of developments and advances in the use of new technologies relevant for the

AMS. The Commission furthermore supports Member States via bilateral meetings and exchanges.

33. How do you see the evolution of the Smart Village program? Can we have a more specific idea of the repair by country or even by region of this program? What is your assessment of the development of internet in rural areas and connectivity?

Commission's answer:

Several activities in relation to Smart Villages are still ongoing. Smart Villages refers to rural areas and communities which build on their traditional strengths and assets to develop added-value, and where traditional networks and services are enhanced by means of digital, telecommunication technologies and better use of knowledge, for the benefit of inhabitants and businesses. In Smart Villages, digital technologies may support better quality of life, higher standard of living, public services for citizens, better use of resources, less impact on the environment, and new opportunities for rural value chains in terms of products and improved processes. Technology is important as are investments in infrastructure, business development, human capital, capacity and community building.

An EP Preparatory Action on Smart Rural Areas in the 21st Century started in early 2020. It is testing the implementation of smart village strategies in practice. The contractor is working with development and implementation of smart village strategies in 21 villages. On top of these, the project communicates with many more villages across Europe. The website of the project, smarrural21.eu, contains information about what is happening regarding Smart Villages in each of the Member States.

The second Preparatory Action for Smart Rural areas started in 2021 and will continue the work, notably on providing recommendations to policy makers in Member States as to how to support Smart Villages across the European Union through the implementation of the Common Agricultural Policy (CAP) post-2020 as well as to other EU policies and initiatives. The new CAP to be in place as of 2023 is promoting the concept of Smart Villages and provides different ways of supporting its implementation through future CAP Strategic Plans but other policies, such as cohesion policy, could also contribute. The preparatory action will increase the Member State specific knowledge base on smart village development.

There has been a substantial increase in Next generation access (NGA) broadband coverage in the EU rural areas, from less than 20% in 2013 to 60% of households in 2020. However, this means that 40% of rural households still do not have good internet access.

A sustained and robust effort is therefore needed to provide connectivity to all rural households and reach the EU 2025 and 2030 connectivity objectives (100 Megabits per second and 1 Gigabit per second respectively for all households).

The Commission supports this effort with two main instruments:

- The Support Facility for the Broadband Competence Offices provides knowledge and technical assistance to the Member States for accelerating the broadband roll-out;
- By controlling – though a rural proofing instrument – that EU financed programmes stick to the objective of broadband roll-out in rural areas.

In addition, Member States have at their disposal the EU funds needed to fill the connectivity gap in rural areas: be it the Recovery and Resilience Fund (RRF), the European Regional Development Fund (ERDF), the European Agriculture Fund for Rural Development (EAFRD), the Connecting Europe Facility (CEF) or the “Next Generation EU” Fund (NGEU).

Finally, Member States are preparing digitalisation strategies as part of their CAP Strategic Plan to elaborate a comprehensive approach to boost digitalisation in agriculture and rural areas in accordance with the situation of their country. For boosting digitalisation in rural areas and beyond, the support for smart villages and the roll-out of connectivity, there are additional CAP tools available to Member States, e.g. investment support as well as cooperation and support to the development of digital skills. While Member States may use several EU and national programmes to achieve connectivity targets, e.g. CEF and the Recovery and Resilience Facility, within their CAP digitalisation strategy, they will be invited to describe how corresponding targets are planned to be achieved.

Questions concerning employment, young farmers, small farms and wages

34. Which measures DG AGRI has taken specifically in favour of young farmers and which forms of support (e.g. direct payments, lump sum, financial instruments) and what explicit and qualifiable results were reached knowing that their number continues to decline. 5.1% are under the age of 35.

Commission's answer:

For the programming period 2014-2020 under the second pillar of the Common Agricultural Policy, different measures are available, notably business start-up support, together with support for investment, training, advice and cooperation, amongst others. They are based on an assessment of needs, prioritisation and selection carried out by Member States.

It is foreseen to support more than 175 000 young farmers. According to latest available information, 126 000 young farmers or some 72% of the above-mentioned target have

already benefited from this support. Compared to the results stemming from the previous Annual Implementation Reports (60% of the target achieved), there was significant progress in 2020 towards the achievement of the target. Support to young farmers for 2021-2022 was increased, thanks to the funds available for rural development under the European Recovery Instrument, linked to the COVID-19 crisis. The Commission is encouraging the use of financial instruments which are very relevant for young farmers with insufficient access to capital. The use of financial instruments is made more flexible. It can fund projects with higher amounts and types of cost for which there are restrictions in the grants rules.

Under the first pillar, the obligatory Young Farmer Payment (YFP) targets farmers of no more than 40 years of age who are setting up for the first time an agricultural holding. This is a payment per hectare, additional to other direct payments. In claim year 2019 (financial year 2020), about 525 000 young farmers (an increase of 8.6% compared to claim year 2018 and a substantial 85% compared to claim year 2015) received about EUR 584 million under this scheme.

In their future CAP Strategic Plans, Member States will have to present a sound strategy encompassing both Pillar I and Pillar II to address the generational renewal challenge and explain the interplay between Union and national actions (e.g., taxation, inheritance law). The new policy includes earmarking of an amount corresponding to at least 3% of the Member States' envelope for direct payments to support young farmers. This support may be granted as enhanced income support, or start-up aid for new young farmers, as well as, in addition, investment support at higher rate.

35. What measures are envisaged so that farmers' wages are less dependent on direct aid and can reflect their work?

Commission's answer:

The CAP continues to support farm income. It does so on the one hand by improving competitiveness and productivity of farms in the Union and on the other hand by providing direct income support.

A focus on markets has characterised the Common Agricultural Policy since the MacSharry reforms. This market orientation has strengthened competitiveness of EU agriculture. Testimony to this is the increase in exports and the growth in the net-export position of the Union in agri-food products. The decision by the co-legislators to maintain market orientation as a corner stone of European agricultural policy is very important for ensuring continued competitiveness.

The gap between farm income and the average wage in the economy as a whole is decreasing. But despite this trend, linked to gains in competitiveness, the income gap remains considerable. Consequently, both pillars of the CAP will continue to contribute

to supporting and stabilising farm income. Direct income support represents around 25% of EU factor income (2014-2018 average) and reaches over 6.2 million beneficiaries (financial year 2020).

With the 2021 reform of the CAP, income support to farmers will continue to be a key tool to ensure farm income and viable food production. This support will particularly contribute to strengthening resilience of EU agriculture: direct support provides stability through a guaranteed revenue.

Direct payments also reward farmers for delivering public goods and other actions that the market place does not necessarily remunerate. With the reform of the CAP, support is increasingly linked to delivering such public goods in terms of – for example – environmental services. Direct support is therefore less and less a pure income support instrument and increasingly a tool to reward efforts made. That means one can no longer argue that farm wages are highly dependent on direct support, rather that public money pays for public goods.

Finally, with its efforts under the Farm to Fork Strategy, the Commission aims to develop new markets for sustainable goods, which aims to provide new revenue streams for farmers, such as for example carbon farming or bioeconomy products.

36. Have new performance targets and indicators been set to identify and reduce income inequalities between farmers, the evolution of greening and the presence of young farmers?

Commission's answer:

Regarding income inequalities between farmers, two result indicators have been added to monitor direct support re-distribution to smaller farms and to areas with higher needs such as Areas facing Natural Constraints: 'R.6 Redistribution to smaller farms' and 'R.7 Enhancing support to farms in areas with specific needs'. In addition, income developments will be closely monitored via context indicators reporting farm income (C.26) by type of farming, by region, by farm size, in Areas facing Natural Constraints. This will allow measuring differences. Moreover, the impact indicator I.24 will monitor the distribution of CAP support.

Regarding the monitoring of cross-compliance, the Annual Performance Report will not include any information on the various good agricultural and environmental practices (GAEC) by practice and by land type. To fill-in this gap, the Commission is considering another data request to Member States, covering notably the most important GAEC. The final list of information to be shared by Member States would be set in an implemented act, requiring positive opinion from Member States.

For young farmers, the result indicator R.30 will indicate the number of young farmers setting up who benefitted from CAP support. In addition, the impact indicator I.21 will report the new farm managers based on ESTAT new Farm Statistics survey.

Quantified targets will be defined for all result indicators.

37. What is your assessment of the measures to develop employment in rural areas?

Commission's answer:

The Commission has a positive assessment of measures to develop employment. The CAP fosters employment in rural areas on the one hand by strengthening the viability of the farm sector and of the industries depending on it and on the other hand by supporting local rural development. The market-oriented policy ensure that livelihoods of many farms and businesses are sustained by market demand, including exports. This positive contribution to employment and growth was proven by a JRC study³, done in the framework of the evaluation of the CAP impact on territorial development, to be published by the end of the year.

It is very important to stress the crucial role played by direct payments in supporting income as well as rewarding public goods and thereby maintaining existing jobs on farms. Recognizing structural change and technological developments, rural development measures is key for creating new jobs in rural areas, also outside the farming sector. Support to training, innovation and general infrastructure also contributes to job creation. The European Green Deal will bring further new opportunities for sustainable jobs in rural areas.

In the current programming period (by the end of 2020), more than 54 000 new jobs were created through projects supported by rural development programs. Moreover, the CAP supported setting up of more than 126 000 young farmers, contributing to the generation renewal in agriculture.

³ Guimaraes Dumangane, M.B., Freo, M., Granato, S., Lapatinas, A. and Mazzearella, G., An evaluation of the CAP impact: A discrete policy mix analysis, EUR 30880 EN, Publications Office of the European Union, Luxembourg, 2021, ISBN 978-92-76-43291-3, doi:10.2760/72177, JRC125451

38. It is often argued that more consideration needs to be given to the fact that large farms do not necessarily need the same level of support as small farms to stabilize their farm incomes in times of instability, since they can benefit from potential economies of scale that can make them more resilient. What measures have been taken to support family farming?

Commission's answer:

Smaller farms have indeed on average higher income support needs compared to larger farms which can benefit from economies of scale. In the 2015-2022 CAP, the following tools are available to MS:

- the redistributive payment: Member States have the option to redistribute up to 30% of their direct payments envelope to the first hectares on every farm. In 2020, 10 Member States implemented this scheme.
- the reduction of payment and capping: Member States must also reduce by at least 5 % the amounts above EUR 150 000 which any beneficiary obtains from the basic payment. In claim year 2020, 21 Member States apply degressivity, 14 of which only the mandatory minimum. Only 1 Member State applies a higher reduction rate, and 9 Member States apply capping.
- the small farmer scheme: Member States may propose small farmers to replace all direct payments by one scheme, possibly with a more attractive lump sum than what the farmers would have received through the “standard” schemes.

These tools contributed to reinforce the unit amount per hectare to smaller farms. Analyses show that the average total direct payment per hectare decreases with increasing farm size, while the income per worker increases (up to 500 ha and decreases above).

Compared to 2015-2022, a reinforced set of policy tools will allow MS to better target direct payments towards smaller farms in the context of their CAP Strategic Plans:

- Complementary redistributive Income Support for Sustainability (CRISS) and the Mandatory overview on how the redistribution needs are addressed in the MS CAP Plans: A key new element is the mandatory overview of how the redistributive needs in terms of fairer, more effective and efficient direct payments are addressed in the intervention strategy. Depending on the Member State’s specific context, different interventions or tools could be used. The general rule is an obligation for Member states to dedicate at least 10% of the direct payments to the redistributive income support to increase payments for smaller farms. When duly justified in the CAP Strategic Plans, Member States will be able to use other interventions and instruments of the first pillar to address the identified redistributive needs, such as the payment for small farmers, the internal convergence, the territorialisation of the basic income support and/or capping/degressive reductions

- Reduction of payments and capping: The principle of reduction and capping is maintained but on a voluntary basis for Member States. Member States may apply up to 85% reduction from 60.000 €, applicable to the amount of Basic Income Support for Sustainability received by a beneficiary. Should a Member State decide to use more than one tranche, then the reduction must be progressive. They may also impose an upper limit (capping) on the amount received at 100.000 €. The savings from this reduction/capping will stay within Member States' CAP budgets, to be primarily used for the redistributive payments if kept within direct payments.
- Basic Income Support for Sustainability (BISS) - territorialisation: it will be possible for all the MS to design the BISS by group of territories on the basis of agro-environmental and/or socio-economic criteria to better target higher income support needs (such option was only available for MS using payment entitlements in the current system).
- BISS - internal convergence: the internal convergence will go further in breaking down the link with the historical references. Those with a direct payments model based on historical productive references will need to close the gap in payment disparities to at least 85% of the average by 2026.
- BISS – payment to small farmers: MS can propose to small farmers to replace all their direct payments by a lump sum or per hectare payment (reinforced support compared to the sum of the individual direct payments).

Questions concerning climate change, organic farming, land and water related issues (I2 horizontally associated to all SR related questions)

39. Do you think that having 8.5% of organic farms in 2019, considering the amounts invested, is a correct figure?

Commission's answer:

According to the most recent Eurostat statistics, the agricultural area under organic farming increased from 9,457,886 ha in 2012 to 13,793,665 ha (i.e. 8.5% of the total agricultural area) in 2019. This constitutes a substantial increase of the agricultural area under organic farming by no less than 45%.

It deserves emphasis that financial support for the conversion to or maintenance of organic farming is an absolutely necessary, but not sufficient, condition for increasing the agricultural area under organic farming. What is also needed to convince farmers to convert to organics is that they observe a sustained increase in the final consumer demand

for organic products. That is why the Action Plan for the Development of Organic Production (COM(2021) 141), adopted by the Commission on 25 March 2021, takes first and foremost a demand-driven approach, focusing on consumer information and awareness-raising, agricultural promotion, green public procurement, the school scheme, actions to maintain consumer trust, and joint actions with the private sector. This Action Plan was adopted in support of the target - included in both the Farm to Fork strategy and the Biodiversity strategy, key strategies under the European Green Deal – of achieving 25% of EU agricultural land under organic farming by 2030 and a significant increase in organic aquaculture.

40. During the 2014-2020 period, the Commission attributed over a quarter of the CAP's budget to mitigate and adapt to climate change. ECA found in its Special Report 16/2021: "Common Agricultural Policy and climate: Half of EU climate spending but farm emissions are not decreasing" that the €100 billion of CAP funds attributed to climate action had little impact on such emissions, which have not changed significantly since 2010. According to the Court, CAP mostly finances measures with a low potential to mitigate climate change. Food production is responsible for 26 % of global greenhouse gas emissions, and farming – in particular the livestock sector – is responsible for most of these emissions. What conclusions did the Commission draw from this special report and how were they incorporated into the proposals for the new CAP rules?

Commission's answer:

It should be noted that, even while EU agricultural production continued to grow, agricultural greenhouse gas emissions have been reduced by more than 20% since 1990. The climate impact of EU production is therefore one of the lowest worldwide.

The Commission considers that more needs to be done in terms of climate and emissions to achieve the EU's ambitious climate targets for 2030 (reaching a net emissions reduction of at least 55% by 2030 in the EU). The Commission will continue working towards achieving this target, and is actively pursuing this goal through the Fit for 55 package presented in July 2021.

The Commission is fully committed to achieve the goals set out in the European Green Deal and its core elements of climate action, biodiversity and sustainability. The new CAP will be key in supporting this transition. This includes taking action to reduce emissions in the agriculture sector (ECA recommendation 1):

The new CAP includes EU common objectives for climate mitigation and adaptation. Member States have to describe in their CAP Strategic plans how their "green architecture" will allow the objectives and targets set at EU level to be reached, using the instruments available at EU level.

These instruments include an enhanced conditionality, strengthening the legal baseline of compulsory practices. On this basis, Member States will have to devote a significant part

of the future CAP budget to financing sustainable farming practices, through in particular the eco-schemes and rural development interventions, in particular agri-environment and climate management commitments. Investments, including non-productive investments in climate change mitigation and adaptation, research, practical advice for farmers, etc. will also contribute to reaching the climate objectives.

On the issue of wetland and peatland protection and reducing emissions from cultivated drained organic soils (ECA recommendation 2):

The new CAP foresees the protection of peatland and wetland in the framework of the future conditionality (GAEC 2). Member States will be able to devote a significant part of the future CAP budget to rewetting/restoration of drained organic soils through the eco-schemes and a range of rural development interventions.

In addition, the Commission will present a Communication on sustainable carbon cycle; this will promote carbon farming as a business model that creates a new source of income for the actors of the bio-economy, based on the climate benefits they provide.

Thirdly, on the issue of reporting on the CAP's contribution to climate change mitigation (ECA recommendation 3):

The Commission believes the yearly result indicators foreseen for the future CAP Strategic Plans will provide sufficient information on Member States' progress in the implementation of the interventions beneficial for climate. A meaningful assessment of the effects of these measures on net greenhouse gas emissions requires data over multiple years, including information on the various external factors impacting GHG emissions (the CAP not being the only factor driving GHG emissions). Such assessments will be addressed through evaluations, i.e. not on a yearly basis.

41. A recent report from ECA (16/2021) underlines the fact that CO₂ emissions from agriculture are not falling further given the resources invested? Or more than 100 milliards have been invested to do so and to fight climate change. How to explain that the greening measures had such a weak impact? What about enhancing more efficient practices including precision farming?

Commission's answer:

The Commission is aware that more needs to be done in terms of climate and emissions to achieve the EU's ambitious climate targets for 2030 (reaching a net emissions reduction of at least 55% by 2030 in the EU). The Commission will continue working towards achieving this target, and is actively pursuing this goal through the Fit for 55 package presented in July 2021.

Support to digitalisation in agriculture will play a pivotal role in the CAP 2023-2027. As part of their CAP Strategic Plans, Member States will elaborate digitalisation strategies

and elaborate a comprehensive approach to boost digitalisation in agriculture and rural areas. Thus, they may not only offer support to precision farming, but also strengthen farmers' capacities to take up and effectively deploy digital tools in a holistic way. This may include support to digital skills, advice or investment support.

Furthermore, Member States will programme eco-schemes and agri-environment and climate management commitments supported by the EAFRD in the future CAP Strategic Plans which cover additional costs and income foregone resulting from practices beneficial for climate and the environment going beyond the baseline of mandatory requirements.

The development of more efficient practices, including precision farming, is and will continue to be supported under the Research and Innovation (R&I) Programmes Horizon 2020 and Horizon Europe. R&I will include an action on the assessment of the impacts of precision farming also to account for increased uptake, technological advancements and increased emission reduction potential.

The CAP, together with the Farm to Fork Strategy, does not only have the objective to reduce emissions but also seeks to preserve biodiversity and rural livelihoods, reduce pesticides use and pressure on water quality, and provide high quality food. Organic agriculture is one of the means to achieve all these objectives but, at the same time, it is not feasible to assess its potential impact on emission reductions due to insufficient data available.

The Commission still considers that cross-compliance and greening incentivised farmers to adopt effective climate mitigation measures.

42. Could the Commission provide an update on the implementation of the recommendations from the ECA Special Report 20/2021 on Sustainable water use in agriculture as well as the ECA Special Report 16/2021 on CAP and climate?

Commission's answer:

Given the very recent publication of both ECA Special reports, the timeframe foreseen for the recommendations and actions envisaged, mostly linked to the assessment of Member States CAP Strategic Plans or evaluations, the actions carried out by the Commission toward the implementation of the recommendations are largely in a preparatory phase.

In respect of the recommendations from the ECA Special Report 20/2021 on Sustainable water use in agriculture, the Commission accepted the recommendation 1 (Request justifications for exemptions to Water Framework Directive (WFD) implementation in agriculture). The replies to this special report indicated that the Commission in its 2019 assessment of the 2nd River Basin Management Plans (RBMP) provided recommendations asking Member States to better address, in the third RBMPs, how they

implement the obligation to apply cost recovery to water services, and any exemption thereunder. Further, the Commission is currently enquiring with all Member States how they apply the requirements of the WFD in practice, in particular the requirement for prior authorisation for abstraction and exemptions.

On the same report, the Commission partially accepted the ECA recommendation 2 and 3 (to tie CAP payments to compliance with environmental standards and to use EU funds to improve the quantitative status of water bodies). In this respect, the Commission is considering these recommendations in the structured dialogue with Member States for the definition of their CAP Strategic Plans. In general terms, Commission is analysing and discussing whether the CAP strategic plans sufficiently take into account the analysis, objectives and targets included in the WFD and the RBMPs and whether they make an adequate contribution to those objectives and targets. In particular, the Commission is analysing that the relevant provisions of the Water Framework Directive are introduced into the scope of the enhanced conditionality and that all relevant CAP payments to farmers are coherent with the objectives of the WFD. The Commission also analyses whether rural development interventions are in line with the WFD objective of reaching good status (e.g. investments in irrigation) and whether they adequately contribute to the needs identified in the RBMPs and WFD programmes of measures (e.g. area-based interventions, WFD payments, non-productive investments).

The Commission is fully committed to achieve the goals set out in the European Green Deal and its core elements of climate action, biodiversity and sustainability. The new CAP will be key in supporting this transition and this is reflected in the emphasis on climate and environment in three of nine specific objectives in the next programming period. The Commission plans to present a Communication on Sustainable Carbon Cycles, with the aim of kick-starting and upscaling carbon farming initiatives.

See also reply to question 40 concerning the Special Report 16/2021: "Common Agricultural Policy and climate: Half of EU climate spending but farm emissions are not decreasing".

43. Improving water management on forest land only 27 % of achieved target by the end of 2019, and Preventing soil erosion and improving soil only 28 % of achieved target by the end of 2019 (cf AMPR vol 3 technical annexes)

How can you explain this poor performance, this question is of great importance because of the situation of some Member States affected this summer by floods, heat waves and fires.

Commission's answer:

Targets in the Annual management and performance report for the EU budget are defined at the beginning of the programmes and come in various forms (e.g. quotas, benchmarks, numerical goals). In most cases, the final target is set for 2020, the end of the programming period. However, account should be taken of the specific nature of the

shared management programmes (in particular in the areas of agriculture and cohesion), which are characterised by a long start-up phase (e.g. planning, programming, authorisations) followed by a long implementation cycle. As such, the appropriations for the European Structural and Investment Funds can be implemented in the 3 years following the commitment of the funding, therefore the final target is set for 2023, in accordance with the 'n + 3' rule.

Both targets mentioned in the question belongs to the implementation of the European Agricultural Fund for Rural Development where implementation remains at cruising speed. The targets mentioned are considered 'on track' to reach the objective of 1.3% of the forest land under commitments to improve water management or preventing soil erosion and improving soil management. As indicated, the objective should be reached in 2023 and we would expect the increase of the area during the coming years.

Specific indicators about floods and fire protection are included in Cohesion funds, Civil protection and Solidarity funds within others.

44. One fourth of all water abstracted in the EU is used for agriculture, mainly for irrigation. Many regions are already affected by water scarcity and climate change is likely to exacerbate this. The Water Framework Directive sets a target of good status for all water bodies by 2027 but according to ECA Special Report 20/2021: "Sustainable water use in agriculture: CAP funds more likely to promote greater rather than more efficient water use" there are significant delays in reaching this target. How could the CAP be more consistently aligned with EU water policy? Did the Commission request justifications from the Member States for exemptions to Water Framework Directive implementation.

Commission's answer:

The Commission considers that the CAP incentivises sustainable management of water in agriculture and contribute to the objectives of the water policies through various instruments and measures, notably:

- cross-compliance;
- payment for agricultural practices beneficial for the climate and the environment (greening)
- payments to farmers for costs and income foregone resulting from the implementation of the Water Framework Directive (WFD).
- and other rural development support (notably the agri-environment-climate measure).

For the future, the new CAP will be more consistently aligned with EU water policy since CAP strategic plans need to deliver a higher ambition for the environment and climate

and have to make an adequate contribution to the objectives and targets included in the WFD and RBMPs. Under the future CAP:

- new enhanced conditionality directly includes relevant provisions of the WFD and the Directive on the sustainable use of pesticides.
- Support for practices beneficial for water management under eco-schemes (under Pillar I) and management commitments (under Pillar II).
- limiting investments to expand irrigated areas to water bodies which are not under water stress and if there will be no significant negative environmental impact (without any exceptions).
- Support for non-productive investments, organic agriculture and Water Framework Directive Payments will continue to be available.

The Commission asked Member States to indicate how they justify exemptions to the Water Framework Directive implementation in relation to exemptions from Article 4 (4-7). As regards possible exemptions from the obligation to authorise water abstractions in accordance with Article 11(3)(e), the Commission requested them to explain how the exemptions on abstractions are applied in practice and to reply and provide info on the following sub questions:

- On which criteria and rules authorities are required to establish whether the abstraction has a significant impact on water status or not;
- Whether such punctual exemptions are recorded in the register of water abstractions and, if not, how authorities keep otherwise record thereof;
- How many exemptions have been granted by authorities in the period 2014-2019 period and the total amount of water quantity they account for, and the reasons thereof.

This work is still ongoing and the replies from the Member States are under assessment. First analysis of the results has shown that many replies indicate that the registers do not include records of exemptions (i.e exempted water volume which is abstracted) and many Member States responses are either fragmented or missing information or did not reply directly to the questions. Member States have been invited to fill in this missing information.

45. The EU organic sector has developed rapidly over recent years but referring to the Special report 04/2019: The control system for organic products has improved, but some challenges remain, ECA concluded. Which measures DG AGRI has taken to address the remaining weaknesses they had identified in the Member States for EU products, to improve the supervision of imported organic products through better cooperation as well as to carry out more complete traceability checks? What are so far the outcomes of the Organic Action Plan?

Commission's answer:

The Commission has taken actions under each of the three ECA recommendations.

Under Recommendation 1 (Address remaining weaknesses in Member State control systems and reporting), the Commission has, for instance, continued to carry out and follow up on audits in the Member States. It has also, for instance, via dedicated secondary legislation, revised the template for the annual reports by Member States in order to fill information gaps.

Under Recommendation 2 (Improve supervision over imports through better cooperation), the Commission has improved its supervision over equivalent control bodies raising with them every few months the notifications addressed to them, also involving their accreditation bodies. The Commission now also assists the Member States in the implementation of their risk-based control strategies by issuing on an annual basis guidance on the implementation of additional official controls on certain products from certain countries and by alerting Member States every few months to the products most involved in OFIS notifications.

Under Recommendation 3 (Carry out more complete traceability checks), the Commission has carried out traceability exercises on European certified products whose results have been discussed together with MS. Moreover to improve the cross border accessibility to data, the Commission is developing a data base of organic certificates in order to enhance transparency throughout the sector. The database will start on a European perspective and move on in the future to integrate producers also in third country.

As for the outcomes of the Action Plan on the Development of Organic Production, implementation is on-going. For instance, on 23 September, a highly successful EU Organic Day was organised involving an inter-institutional declaration involving the Commission, the European Parliament and the Council, and witnessed by the European Economic and Social Committee and the Committee of the Regions and stakeholders, declaring 23 September from now on EU organic day. The annual call for proposals on information measures on the CAP for 2022 has been prepared, drawing attention to organics. The Work programme 2022 of the agricultural promotion policy is being prepared, including a dedicated budget for organics. Awards recognising excellence along the organic supply chain are being prepared. Events on GPP for organic products are being explored. Progress has been made on actions relating to preventing food fraud and strengthening consumer trust. The first code of conduct for responsible business and marketing practices has been published, which comprises references to organics. A dedicated organics assessment tool has been developed for the assessment of CAP national strategic plans. Progress is being made on enhancing the availability of statistics on organic production. Relevant organics-related research and innovation topics have been included in the Horizon Europe work programme 2021-2022 and are being proposed for the work programme 2023-2024.

46. The Parliament adopted its resolution on EU Forest Strategy in October 2020. How did the Commission ensure that the Parliament's views were taken into account in the preparation of the Commission's new Forest Strategy?

Commission's answer:

The Strategy is strongly anchored in the European Green Deal and the commitments made in the EU 2030 Biodiversity Strategy. In the context of the ambition of the Green Deal, the new Forest Strategy has been shaped by taking note of the European Parliament's own initiative Report and Council Conclusions on the future Forest Strategy from November 2020, for instance in the efforts to support multifunctional and resilient EU forests to strengthen sustainable forest management concept.

47. How has the Commission examined the economic impact of taxonomy on countries that rely on forest industries?

Commission's answer:

The EU Taxonomy is a classification system for environmentally sustainable economic activities, framed by the Taxonomy Regulation and specified by delegated acts that set out performance thresholds per activity. The Taxonomy Regulation sets out disclosure requirements for financial market participants and large companies. Accordingly, the impact assessment accompanying the 'climate' delegated act includes a sector-specific assessment of the approaches and criteria for economic operators who choose to align their activities with the EU Taxonomy. It does not assess the impact of the taxonomy-aligned forest industries on the economy of the specific countries where these are located. The impact assessment assesses the criteria in the draft Climate Delegated Act, published for feedback in November and December 2020.

In light of the specific role of forestry in decarbonising the EU economy, but also in light of the importance of forests to a broader range of EU environmental objectives, a comprehensive approach to forestry underpins the approaches and technical screening criteria for this sector. The criteria notably ensure applicability in a range of situations and avoid prescribing specific practices that might not be suitable in all locations and circumstances.

While preparing the Climate Delegated Act, the Commission paid special attention to avoiding excessive administrative burden and reducing complexity of the criteria for forest owners. Therefore, the proposed criteria are predominantly based on the elements from existing forest management and sustainability processes. For example, the criteria require the forest holding to have a forest management plan which stems from national legal requirement. Standard practices exist on the market. The auditing provisions were

also lightened, so that it can be done in conjunction with other forest or climate certifications, and the frequency of auditing was reduced. Small forest owners are exempted from doing a climate benefit analysis and larger holdings with forest area complying with the sustainability criteria of the Renewable Energy Directive (REDII)⁴ should only need to carry out a short-term climate benefit analysis. At the same time, the different requirements in the criteria ensure a sufficiently high ambition level further by promoting additionality of measures, going beyond the business as usual baseline.

In practice, a forest owner would face a reporting requirement for disclosures against the Taxonomy if, as an economic operator, they are subject to the Non-Financial Reporting Directive. A forest owner might also want to report on a voluntary basis to attract investors. It should also be noted that the alignment with the taxonomy criteria is voluntary for economic operators.

The 'climate' Delegated Act envisages the review of the criteria for forestry, based on the upcoming Commission's relevant policies and legislation.

48. Although forest cover in the EU has grown in the past 30 years, the condition of those forests is deteriorating, according to ECA Special Report 21/2021: "EU funding for biodiversity and climate change in EU forests: positive but limited results". The Court found that the Commission could have taken stronger action to protect EU forests, in areas where the EU is fully competent to act. What concrete actions did the Commission take a) to combat illegal logging and b) to improve the focus of rural development forestry measures on biodiversity and climate change?

Commission's answer:

The Commission continues its monitoring of EUTRs enforcement actions carried out by Member States relevant authorities. At the same time, on 17 November 2021, the Commission has adopted a proposal for a Regulation on deforestation, which will strengthen the obligations by Member States to curb illegal logging and enhance due diligence obligations foreseen in the EUTR. This proposal is based inter alia on the EU Timber Regulation (EUTR)/ (Forest Law Enforcement, Governance and Trade) Flegt Regulation Fitness Check, i.e. a thorough assessment of the existing EU legal framework to fight illegal logging.

In the new EU Forest Strategy, the Commission has committed to strive to increase the uptake of rural development funds available for its purposes. The recommendations to Member States on the CAP Strategic Plans, for the 2023-2027 period, have encouraged due consideration of forest biodiversity and climate aspects. The Commission will also

⁴ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources.

provide new means to share information on good practices to better design and implement forest-relevant interventions, fostering the exchange between experts in Member States, providing demonstration tools for consistent use of funding, and supporting local and regional networking, including in situ demonstration initiatives.

In the assessment of CAP Strategic Plans the Commission will notably pay attention to forest related measures, which have strong synergies with the EU's climate and biodiversity objectives.

Moreover, the Commission will assess if the requirements at EU level are fulfilled and the designed interventions are based on the SWOT and needs assessment, taking into account the European Green Deal objectives and the Commission's specific recommendations to individual Member States.

Forestry measures supported under the EAFRD should be in line with the principles of sustainable forest management, taking into account the multi-functionality of forests.

Moreover, support for the forestry sector has to be based on a forest management plan or an equivalent instrument.

49. How to explain that rural development funds did not help finance the restoration of peatlands which represent 2% of agricultural land but emit 20% of greenhouse gases of agricultural origin?

Commission's answer:

The Commission has information that at least six Member States have activated rural development to support restoration of drained peatland in the 2014-2020 period (Belgium, Denmark, Germany, Italy, Hungary, and Sweden). However, the Commission does not have any systematic monitoring data on the Member States' implementation of rural development funding for the restoration of peatland as regards the area restored. Under the future CAP Member States will be able to support the rewetting/restoration of drained organic soils through a range of rural development interventions (such as non-productive investments, management commitments), as well as through eco-schemes, based on their specific needs. The Commission intends to carefully consider this aspect when assessing the future CAP Plans and the importance of peatlands has been addressed in the Recommendations the Commission made to Member States on the CAP Plans in 2020.

Annex 1

	Title and scope	Who conducted the study	Total cost of the study	Procedure used	Date of completion	Was the study published and where	What was the study used for (e.g. which legal proposal, impact assessment, other)
1	<p>‘Study on the adaptation strategies of the sugar supply chain after the end of the sugar quotas’</p> <p>The overall aim of the assignment will be to provide a sound and comprehensive analysis on the EU sugar sector's capacity to adapt to its post quota environment and its ability to respond to varying market and production conditions.</p>	<p>Joint tender with</p> <p><u>Group leader:</u> ARETE srl</p> <p><u>Group member:</u></p> <p>AGRA CEAS CONSUTLING Bureau Européen de Recherche</p>	EUR 396,000.00	Open call for tenders	Final deliverable has been submitted on 5/11/2021	No, final deliverable still under assessment concerning its acceptance	<p>Comprehensive review.</p> <p>To support the EU sugar sector to continue its adaptation through a better adjustment of the production to market forces and strengthen its resilience and risk management strategies in this highly volatile environment.</p>
2	<p>‘Study for the development of a common framework for the quantitative advice of crop nutrient requirements and greenhouse gas emissions and removal assessment at farm level’</p> <p>The overall aim of the study is to provide sound and comprehensive description of the methodological frameworks including appropriate parameters, variables and formulas necessary to provide quantitative advice for the use of fertilizers and assessment of GHG emissions and sinks at field and farm scales.</p>	<p>Joint tender AgroAsesor-FATIMA-Landsupport with</p> <p><u>Group leader:</u> AgriSat Iberia s.l</p> <p><u>Group members:</u></p> <p>ITAP - Instituto Técnico Agronomico Provincial sa</p> <p>UCLM - Universidad de Castilla-La Mancha</p> <p>INTIA - Instituto Navarro de Tecnologias e</p>	EUR 440,000.00	Open call for tenders	Final deliverable due on 1/12/2021	No, as study is still on-going	<p>To provide advice to farmers in diverse areas, for a high number of crops and practices and under the common restriction of data availability.</p> <p>To contribute to the development of the software and architecture necessary to provide the minimum elements and functionalities required for the FaST in the Regulation.</p>

		<p>Infraestructuras Agroalimentarias sa</p> <p>CREA - Council for Agricultural Research and Economics</p> <p>IFEU - Institute for Energy and Environmental Research</p> <p>INRAE - Institut National de Recherche pour l'Agriculture, l'Alimentation et l'Environnement</p> <p>IUNG - Institute of Soil Science and Plant Cultivation</p> <p>Ariespace s.r.l.</p>					
3	<p>'Study on EU Agri-food Exports via eCommerce to China'</p> <p>The overall aim of the study is to provide sound and comprehensive description, analysis and conclusions on the existing and potential market opportunities for EU agri-food producers to export via eCommerce to China, with a particular focus on Geographic Indications (GIs) and organic products.</p>	<p>Joint tender with</p> <p><u>Group leader:</u> AGRA CEAS CONSULTING BUREAU EUROPEEN DE RECHERCHES</p> <p><u>Group member:</u> ARETE srl</p>	EUR 576,350.00	Open call for tenders	Final deliverable has been submitted on 19/11/2021	No, final deliverable still under assessment concerning its acceptance	<p>Assessment study.</p> <p>In the context of several ongoing trade negotiations, there is an interest for DG AGRI to learn more about the impacts of imports on the agricultural sector in order to better understand the dynamics and implications for the sector and take these into account in the design and implementation of trade agreements.</p>

4	<p>Pilot Project – ‘Developing a Farmers’ Toolbox for Integrated Pest Management Practices from Across the Union’</p> <p>The overall objective of this first part of the pilot project is to provide background knowledge on the most promising ways that could help farmers, advisors, and policymakers to scale up the reduction of the dependency on pesticide use across the European Union.</p>	<p>Joint tender with</p> <p><u>Group leader:</u> Arcadia International</p> <p><u>Group members:</u></p> <p>Ecorys Europe EEIG – GEIE</p>	EUR 993,765.00	Open call for tenders	Final deliverable due on 20/11/2022	No, as study is still on-going	The conclusion of this pilot project should provide useful information for future actions at EU and Member States’ level, including the implementation of the CAP post-2020.
5	<p>Pilot Project - ‘Establishing an operational programme: structuring the agri-food sectors to safeguard the handing-on of family farms and the sustainability of local agriculture’</p> <p>The overall aim of the project is twofold: (1) to assess the advantages that producer organisations (POs) offer farmers in EU agriculture (compared to producers that operate with contracts or individually), including if and how this cooperation helps (i) strengthening producers’ position in the agri-food supply chain and (ii) improving the sustainability of farms that are owned by members of POs; and (2) to examine how POs can boost the overall sustainability of their members by establishing a sectoral intervention through operational programmes (mirroring the existing model of the fruit and</p>	<p><u>Group leader:</u> Ecorys Europe EEIG – GEIE</p> <p><u>Group member:</u></p> <p>ERGO Consulting s.r.l.</p> <p>Arcadia International</p>	EUR 1,690,000.00	Open call for tenders	Final deliverable due on 20/06/2023	No, as study is still on-going	The study should help policymakers and stakeholders to better understand the role of producer organisations and the options available to strengthen the role of producer organisations in the agri-food supply chain, with additional transparency provided in the technical paper describing the method and results. A handbook should help producer organisations build effective operational programmes.

	vegetables sector and taking into account the possibilities introduced in the Commission proposal for a regulation establishing rules on support for strategic plans (Articles 59 to 63) and combining various measures in a sector-related logic.						
6	<p>‘Evaluation study of the impact of LEADER on balanced territorial development’</p> <p>The overall aim of the study is to provide a theory-based analysis of LEADER multi-sector support instrument to strengthen local social cohesion and cooperation with a particular focus on the participatory approach as well as to assess the extent to which LEADER contributed to the general CAP objective concerning balanced territorial development.</p>	<p><u>Group leader:</u> Aide à la Décision Economique S.A. (ADE)</p> <p><u>Group member:</u> University of Gloucestershire ÖIR</p>	EUR 352,869.00	Specific contract under the Framework	Final deliverable has been submitted on 14/10/2021	No, final deliverable still under assessment concerning its acceptance	To contribute to the EU policymaking cycle and the EU legislative process, in light of Better Regulation.
7	<p>‘Evaluation study of the CAP measures and instruments promoting animal welfare and reduction of antimicrobials use’</p> <p>The overall aim of the study is to conduct a theory-based analysis of relevant CAP instruments and measures having direct (or indirect) effect on animal welfare and reduction of antimicrobials use, and assess the</p>	Agrosynergie GEIE	EUR 398,780.28	Specific contract under the Framework	Final deliverable has been submitted on 09/10/2021	No, final deliverable still under assessment concerning its acceptance	To contribute to the EU policymaking cycle and the EU legislative process, in light of Better Regulation.

	extent to which they promoted practices contributing to improve animal welfare and reduce antimicrobials use.						
8	<p>'Synthesis of the online public consultation on the Long-term Vision for Rural Areas'</p> <p>The overall aim of the study is to synthesise and analyse the results of the open public consultation (carried out in the context of Better Regulation) pertaining to the Long term vision for rural areas (the vision).</p>	<p><u>Group leader:</u> Ecorys Brussels</p> <p><u>Group member:</u></p> <p>Stichting Wageningen Research</p> <p>The Institute for European Environmental Policy</p> <p>The Institute for Rural Development Research</p>	EUR 207,400.00	Specific contract under the Framework	Final deliverable submitted on 20/07/2021 and approved on 28/9/2021	EUR-Lex - 52021SC0167R(01) - EN - EUR-Lex (europa.eu)	To contribute to Commission Communication on long-term vision for the EU's rural areas .
9	<p>'Synthesis of the open public consultation with respect to the Action Plan for th' development of the organic sector</p> <p>The overall aim of the study is to synthesise and analyse the results of the open public consultation ((carried out in the context of Better Regulation) with respect to the Action</p>	<p><u>Group leader:</u> Ecorys Brussels</p> <p><u>Group member:</u></p> <p>Stichting Wageningen Research</p>	EUR 99,700.00	Specific contract under the Framework	Final deliverable submitted on 20/04/2021 and approved on 04/05/2021	Organic farming - action plan for the development of EU organic production (europa.eu)	To contribute to the design of the Organic farming action plan .

	Plan for the development of the organic sector.	The Institute for European Environmental Policy The Institute for Rural Development Research					
10	<p>‘Synthesis of annual implementation reports of POSEI programmes and the programme for the smaller Aegean islands for 2015-2019’</p> <p>The overall objective of this study is to synthesize the Annual Implementation Reports for the years 2015- 2019 carried out by each Member State. It aims at identifying the net impacts of the POSEI/SAI schemes and judging their effectiveness, efficiency, and relevance.</p>	<p><u>Group leader:</u> Ecorys Brussels</p> <p><u>Group member:</u> Stichting Wageningen Research The Institute for European Environmental Policy The Institute for Rural Development Research</p>	EUR 146,000.00	Specific contract under the Framework	Final deliverable has been submitted on 14/10/2021	No, final deliverable still under assessment concerning its acceptance	To contribute to report from the Commission to the EP and Council on the implementation of the scheme of specific measures for agriculture in favour of the outermost regions of the Union.
11	<p>Study with Wageningen University on ‘Research, innovation and technology transfer in the agro-food sector in the Western Balkan countries, Phase II’</p> <p>The overall aim of the assignment will be to provide a sound and comprehensive analysis on the EU sugar sector's capacity to adapt to its post quota environment and its ability to respond to varying market and production conditions.</p>	<p>Joint tender with</p> <p><u>Group leader:</u> Wageningen Economic Research Stichting (Foundation)</p> <p><u>Group member:</u> EuroCare GmbH Johan Heinrich von Thucnen-Institute Federal Research Institute for Rural Areas, Forestry and</p>	EUR 180,000.00	Specific contract under the Framework	01/11/2021	<p>Study is in the process of finalisation.</p> <p>It will be published on the website of JRC and IPARD. Upon an agreement and to ensure broad dissemination of the results, it will be published on websites of</p>	The study is a continuation of the Study on ‘Research, innovation and technology transfer in the agro-food sector in the Western Balkan countries, Phase I’, The results will be used to strengthen research and development cooperation and networks in the Western Balkans (incl., national legislation) and

		Fisheries (Thiinen-Institute)				Wageningen Economic Research and SWG (sub-contractor).	implementation of IPARD III Programme (particularly, measure 13 on Promotion of Innovation and Knowledge Transfer etc.. It will also facilitate cooperation among the EU and the Western Balkan research facilities for development of joint research projects applicable for the EU support.
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