2021 Discharge to the Commission

WRITTEN QUESTIONS TO COMMISSIONER JANUSZ WOJCIECHOWSKI

Hearing on 1 December 2022

Questions concerning horizontal issues

1. The legislative procedure regarding the Commission's legislative proposals on the CAP beyond 2020 has not been concluded in time to allow Member States and the Commission to prepare all elements necessary to apply the new legal framework and the CAP Strategic Plans as from 1 January 2021. The current CAP framework covering the period 2014 to 2020 has been continued until the date of application of the new legal framework covering the period starting on 1 January 2023. In this context:

   - Has the implementation of the CAP envelope under 2021-2027 MFF already started?

Commission's answer:

The co-legislators agreed at the end of 2020 on a two-year transitional period for the CAP. As a result, the European Agricultural Guarantee Funds (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) envelopes that are part of the MFF 2021-2027 have been used for the implementation of the CAP under the transitional rules. In more detail, the 2014-2020 rural development programmes were extended by 2 years (2021 and 2022). They thus stretch over two multi-annual financial frameworks (MFFs): 2014-2020 and the first two years of 2021-2027.

The CAP Strategic Plans will enter into force on 1 January 2023 and will also be financed from the MFF 2021-2027.

   - What is the amount of the funds spent in 2021 under the previous and the current MFF?

Commission's answer:

For the EAGF, the funds provided for in the budget 2021 under the MFF 2021-2027, amounting to EUR 40.7 billion, have been committed and paid during the year.

From the appropriations committed in 2021 for EAFRD and the NextGenerationEU (EUR 17, 7 billion), an amount of EUR 624 million has been paid in 2021.The total amount paid in 2021 was EUR 14,7 billion. Hence, EUR 14 billion of the payments in 2021 were for commitments made before 2021.

- How is the transition to the new legislation for the period 2023-2027 going on and are there CAP Strategic Plans already adopted?

Commission's answer:

The Commission supported Member States in the transition to a new CAP well before the legislation was adopted, through both bilateral and collective approaches, as detailed below. This enabled most Member States to submit their CAP Strategic Plans by the end of 2021 or early 2022.

The Commission issued its observations on all 28 submitted plans, followed by further collaboration and negotiation with the Member States. So far, by 25 November, 20 plans have been adopted and the remaining 8 plans are scheduled to be adopted by end of December.

This will assure the start of the implementation in all Member States from 1 January 2023.

In its work on individual CAP Strategic Plans, the Commission undertook *bilateral actions*, such as:

- A structured dialogue capitalising on the fruitful collaboration between Member State authorities and Commission specialists to cover strategic and technical issues under applicable EU policies;

- Review of complete drafts or elements of the draft CAP Strategic Plans within the Commission as soon as possible to clarify questions or differences in perspectives on key issues.

As regards the *collective approach*, in December 2020, the Commission issued recommendations identifying strategic areas where Member State action is necessary to achieve sustainability. The Commission has also shared additional documents on CAP Strategic Plan assessment with Member States administrations. These documents serve as a guide for assessing different parts of the strategic plans. Significant work was done on translating the structural components of the CAP plan into technical guidelines for the IT platform through which Member States submit their plans ('SFC 2021').
The Commission will continue assisting Member States, where needed.

- How does the Commission assist member states for the transition to the new legislation? What are the main challenges for the member states and is there an exchange of best practices between them assisted by the Commission?

Commission's answer:

As mentioned in the reply to the previous point of this question, the Commission supports and assists Member States through both bilateral and collective approaches, for the transition to the new CAP.

In its work on individual CAP Strategic Plans, the Commission undertook bilateral actions, such as the structured dialogue and clarifying questions or differences in perspectives on key issues based on Member State drafts.

As regards the collective approach, recommendations identifying strategic areas where Member State action is necessary were issued as well as additional documents on CAP Strategic Plan assessment.

The Commission will continue to assist Member States with clarifications of the legal provisions, where necessary. It should be stressed that several Commission services were involved in assisting the Member States with their transition to the new legislation via the Strategic Plans. This collective and coordinated Commission effort helped to resolve various Member State issues promptly and effectively.

- How is the coordination organised between CAP and other programmes, which may also intervene in rural areas, in order to avoid overlapping of funding?

Commission's answer:

The funds have different eligibility criteria in line with their specific intervention logic. Both the current and new CAP legal frameworks require Member States to put in place a mechanism to verify potential double financing of expenditure to ensure that the same costs are not financed more than once from the EU or national budgets.

The management and control systems put in place by the Member States are designed to identify instances of double funding, although such a risk has proven to be very marginal. Procedures are in place to remedy such situations, should they occur, and to protect the EU budget. For example, if national authorities detect the existence of double funding, they must proceed to recover the undue payments and should also assess the potential for fraud.

The management and control systems put in place by the Member State as regards double funding is part of the scope of the certification bodies audit of the internal control system and the legality and regularity of expenditure within the current CAP. This is also one of the basic union requirements that will be under the scope of the certification body's work in the context of the new CAP.

Finally, the Commission itself, in its audits in the Member States, can verify, among others, the management and control system implemented concerning double funding.

When weaknesses in the control system are identified, the Commission may propose recommendations to the Member States to improve their checks and procedures and if warranted make financial corrections to protect the EU budget.

On what concerns specifically the 2023-2027 CAP, the national strategic plans contain, in Section 4.5, an overview of the synergies and coordination of the CAP with other EU funds and funding instruments. While the main purpose of the section is to inform how other funding sources contribute to the strategic target of the CAP Strategic Plans, this section also contains an overview of the administrative arrangements to prevent overlapping of funding. The description of strategy and interventions in the CAP Plan contains, to varying degree of detail, information on cooperation and demarcation between different EU and national funding sources.

In a similar way, the Partnership Agreements, setting out the strategic orientation for programming and the arrangements for using the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF, which also intervene in rural areas, include in section 2 information on the "complementarities and synergies between the funds covered by the Partnership Agreement, the AMIF, the ISF, the BMVI, and other Union instruments". During their preparation, these agreements are consulted internally among the Commission services in order to assess the coordination and demarcation mechanisms in the Member States, which should prevent double funding even if there are some overlaps in terms of the type of investment .

2. The Court of Auditors have expressed concerns about the reliability of the 2021-2027 climate reporting, with most of the issues identified in 2014-2020 remaining. In particular, the Court has found that the Commission has overestimated the climate contribution of key components of agricultural funding, and that the climate tracking methodology will be updated only in 2026. Furthermore, the old methodology was still being applied to the CAP by 2021, and the Court has calculated that there may be an overstatement of EUR 8.9 billion, after an additional EUR 8.8 billion correction. Do you agree with this assessment? How are your services addressing the shortcomings identified? If any measures are being implemented following ECA's recommendations, when will the updated figures be made public?

Commission's answer:

The Commission recalls that the methodology for the CAP has been decided by the co-legislators in Article 100 of the CAP regulation (R(EU)2021/2115) and that the Commission is strictly applying it. In response to the European Court of Auditors' recommendation, in its Special Report on Climate Mainstreaming in the EU Budget, the Commission pointed out that it has undertaken to modify the weightings referred to in Article 100(3) of Regulation (EU) 2021/2115, where such modification is warranted for more precise tracking of expenditure on environmental and climate-related objectives.

The Commission highlights that an EUR 8.8 billion correction has been promptly made and the AMPR and the CAP performance documentation has been duly updated.

The Commission recalls that, in the framework of the 2021-2027 period, it has substantially enhanced its architecture for climate mainstreaming, including by establishing sectorial targets, greening its objectives and monitoring system (i.e. indicators in the performance framework), and subjecting all of the programmes to a suitably tailored application of the "do no harm" principle.

Many of the challenges identified by the ECA have been addressed through the establishment of an activity-based methodology which assigns coefficients to an intervention/action according to its expected results (and not to the intent with which it is undertaken, as was the case for the methodology underpinning the 2014-2020 MFF). This ensures a conservative and consistent approach through the different areas of the EU budget.

3. How DG AGRI is seeing the implementation of the new CAP in the frame of the Green Deal and the new eco-scheme? Especially regarding the carbon stocks in soils (peatlands and wetlands), water use and irrigation, non-productive areas and landscape features that are paramount in reconciling agriculture and biodiversity?

Commission's answer:

The European Green Deal is our strategy for sustainable growth. This will happen by turning climate and environmental challenges into opportunities and making the transition just and inclusive for all. The new CAP builds on the policy achievements of the previous programming periods. It contributes strongly to this sustainability transition and supports the efforts to tackle climate change and protect the environment in various ways. Three out of the nine CAP objectives cover environment and climate. The strategic planning approach – based on needs assessment and targets – covers both CAP pillars, bringing greater coherence. There are stronger links to EU legislation on the environment and climate. In particular, Member States should describe how the plans contribute to the achievement of national targets included in environmental and climate legislation, including when targets that are more ambitious come into force (e.g. the new climate legislation). Additionally, Member States are expected to contribute, through their CAP Strategic Plans, to the Green Deal EU targets on pesticides, nutrient losses, landscape features and organic farming.

As part of the enhanced conditionality, there are new and strengthened standards and requirements linked to the majority of the CAP payments. There are new Good Agricultural and Environmental Conditions (GAEC) on the protection of wetland and peatland in the CAP planning for the 2023-27 period and the Member States had to define the standards and all relevant elements in the CAP Strategic Plans. The GAEC on non-productive areas and landscape features merges a greening requirement ('Ecological Focus Area') and the existing GAEC on 'Protection of landscape features' in one single GAEC to bring more environmental benefits.

Each Member State will spend at least 25% of their Pillar I funding on "eco-schemes" – a new tool for supporting farming practices in favour of the environment and climate (and animal welfare as well as Anti-Microbial Resistance).

CAP Pillar II will continue to offer support for environment and climate-relevant management commitments, investments and innovation – with a minimum spending obligation raised to 35% for each Member State (this percentage covers also the animal welfare commitments and includes 50% out of the expenditure for Areas with Natural Constrains payments).

In their CAP Strategic Plans, some Member States defined more ambitious management requirements on wetland and peatland (e.g. under Pillar I eco-schemes or Pillar II environmental/climate management commitments). Some Member States included in the plan eco-schemes requiring specific practices such as a higher share of land allocated to non-productive area, a cutting regime to improve the ecological quality of woody features. Some Member States also used non-productive investments to support the setting of additional landscape elements (e.g., planting of hedges), in particular where the intensification of farming practices has led to an over-simplification of the agricultural landscapes.

As regards water use and irrigation, this type of support must ensure that infrastructures supported by EAFRD are environmentally sustainable and in line with the objectives of the Water Framework Directive to reach good status of water bodies. Member States had to define the percentages for potential water savings and effective reduction in water use in their CAP Strategic Plans.

Member States have put forward more than 180 eco-schemes, 200 agro-environmental-climate interventions and 30 organic farming schemes in the CAP Strategic Plans. They address among other areas carbon storage, water retention in soil and landscape features, following the needs identified in their territories.

Finally, Member States are explicitly obliged to "aim higher" in their CAP Strategic Plans regarding the environment and climate objectives, compared to the current period.

The implementation of the plans lies with the Member States and the effect on the ground of the CAP Strategic Plans will depend on the uptake of the interventions by farmers. The Commission together with the Member States will monitor this implementation, while the Member States might propose amendments of the CAP Strategic Plans to improve effects depending on the on-going monitoring of the plan.

4. 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?

Commission's answer:

For the programming period 2014-2020 under the second pillar of the CAP as adopted by the co-legislators, different measures are available to young farmers, notably business start-up support, together with support for investment, training, advice and cooperation, amongst others. These measures are implemented by the Member States based on the assessment of their needs, prioritisation and selection. The objective is to support more than 175 000 young farmers. According to latest available information, 126 000 young farmers - or 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 NextGenerationEU (NGEU) fund. 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 2020 (financial year 2021), about 393 000 young farmers received about EUR 534 million under this scheme.

For the programming period 2023-2027, in their CAP Strategic Plans, Member States had to present an integrated 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 will be granted as enhanced income support, or start-up aid for new young farmers, as well as, in addition, investment support at higher rate.

5. 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 (1992). 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. 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 agricultural factor income (2014-2018 average) and reaches nearly 6 million beneficiaries (financial year 2021). 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 and food security: direct support provides stability through a guaranteed revenue. Direct payments also enable farmers to deliver public goods and other actions that the marketplace 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 and they are often imposed as compulsory standards and applicable to farmers through the mechanism of conditionality.

Direct support is therefore less and less a pure income support instrument and increasingly a tool to reward efforts made. 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 bio economy products.

6. Do you think that having 8.5% of organic farms in 2020, 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 14,719,036 ha (i.e. 9.1% of the total EU agricultural area) in 2020. This constitutes a substantial increase of the agricultural area under organic farming by no less than 56%. It deserves emphasis that financial support for the conversion to or maintenance of organic farming is a necessary but not sufficient condition for increasing the agricultural area under organic farming. Farmers will convert to organics if 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 education, information and awareness-raising, agricultural promotion, green public procurement, the EU 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.

Questions concerning errors, fraud and audit related issues

7. Are there any specific actions being taken by your services in the context of audit issues detected in the area of conflict of interest?

Commission's answer:

Procedures to prevent, detect or mitigate conflict of interest are checked in all cases where there are specific regulatory provisions in this regard. For Rural Development, such specific provisions exist in the 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).

The financing, management and monitoring system of the CAP ensures that paying agencies should comply with minimum conditions regarding internal environment, control activities, information and communication and monitoring in order to be accredited (Annex I of Regulation 907/2013). Specific measures to prevent, detect, deter and correct potential conflict of interests and potential fraud are included in these requirements. These accreditation criteria are 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 management of internal and external conflict of interest is also being examined by DG AGRI in the context of accreditation audits carried out to the paying agencies. In 2021 one such audit took place, while, in 2022 three audits are in progress. In addition, concerning financial year 2021, two enquiries related to the financial clearance assessment have been launched by DG AGRI covering, among other issues, the risk of possible conflict of interest (either in public procurement or in Leader). Any issues linked to potential conflict of interest and the corresponding remedial actions will be followed up under the ongoing accreditation and annual clearance enquiries.

Concerning financial year 2021, four conformity audits have been launched covering among others the risk of conflict of interest in Leader.

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. Following findings of the certification body, another audit was launched in 2022 to analyse possible deficiencies in the control of conflict of interest in the producer organisations in fruit and vegetables scheme.

Whenever deficiencies are identified by audits, the Commission acts by making audit recommendations to the Member State concerned to address the causes of the deficiencies (for example by strengthening the control procedures in place) and, where needed, by imposing financial corrections in order to protect the EU budget where a risk to the Funds has materialised.

8. What measures are your services implementing to tackle the issue of land grabbing? In a recent special report, the Court notes that the Commission has not been sufficiently proactive. Have your services identified any trends in this areas? What is the progress of the implementation of the recommendations of the Court's Special Report 14/2022?

Commission's answer:

Whenever there are allegations of malpractices linked to issues of so-called "land grabbing", the Commission looks into them carefully.

The Commission has zero tolerance for fraud with EU funds and therefore it insists on a clear commitment from all Member States to prevent fraud. In case fraud or serious irregularities are detected by the European Anti-Fraud Office (OLAF), the Commission makes sure any misappropriate funding can be recovered from beneficiaries.

If the land is taken by force or obtained illegally, then the judicial system of the Member State should act. The Commission can assist the Member State to resolve the issues, if necessary.

In case issues linked to land grabbing have also an impact on the management and control systems of the CAP, the Commission can and will audit these systems. This may also include monitoring the implementation of a corrective Action Plan to remedy the situation and to protect the EU budget.

Concerning Special Report 14/2022, the Commission has readily accepted the recommendations made by the European Court of Auditors, which are in line with the activities that the Commission is already implementing. In this regard, the Member States are already applying the Commission's guidance note on the issue of land at farmer's disposal (issued in June 2021). The note provides that while Member States have the right to presume that the beneficiaries asking for direct aid have the land at their disposal, still they have an obligation to carry out systematic administrative controls in the light of their national specificities, to ensure that the land use is lawful and based on a valid legal title (or equivalent mean under national law e.g. undisturbed possession) and not only in cases when there is a double claim on the same parcel.

The Commission welcomed European Court of Auditors' recommendation 1 to update its assessment of the fraud risks and accepted it. The Commission is currently preparing a new horizontal fraud risk assessment for the CAP to be ready for the new legal framework to be implemented on 1 January 2023. Furthermore, in the context of the application of the new CAP legislation, all the guidelines for the paying agencies and the certification bodies have been reviewed and specific guidance on the anti-fraud measures was included.

On what concerns recommendation 2 on promoting the use of new technologies in detecting and preventing fraud, see also our replies to questions 11, 12 and 13.

9. After 2 years of pandemics, how the on-spot controls have been realized in 2021? How many of them have been organized and in which country?

Commission's answer:

As a result of the COVID-19 pandemic and consequently the imposed movement restrictions, the Commission reacted swiftly and adopted legislative framework in order to obtain sufficient assurance on the CAP expenditure.

Regulation (EU) 2020/532, adopted in April 2020, provided flexibilities to the Member States on how to perform controls. It resulted, amongst others, in the reduction of the minimum On-the-Spot Control rates for claim year 2020 (financial year 2021). The legislation provided a solid legal basis that Member States must comply with. In addition, Member States could make use of alternative control methods such as fully substitute physical checks with photo-interpretation of satellite or aerial images and the beneficiaries could for instance submit geotagged photos. DG AGRI developed a new audit method in which audits were done remotely when it was impossible to travel to certain Member States due to temporary restrictions in place. Despite being challenging from an organisational point of view, the results were very satisfactory: the auditors were able to perform their audit and to gather evidence to have solid conclusions on the CAP expenditure. DG AGRI obtained the same sound basis for assurance on the CAP expenditure in financial year 2021.

As the COVID-19 pandemic persisted in 2021, similar flexibilities were also adopted for claim year 2021 with Regulation (EU) 2021/725. The amended rules were limited in time and scope. Minimum control rates have been reduced while still ensuring a deterrent effect for claim year 2021. certification bodies could have adopted similar alternative methods as the paying agencies to re-verify the paying agencies' checks done during the COVID-19 crisis– following the guidance DG AGRI provided to them.

Following the lifting of the travel restrictions, partially in 2021 and fully in calendar year 2022, the Commission restarted carrying out on-the-spot audits.

The number of on-the-spot audits performed by DG AGRI in 2021 reached 36 in 18 Member States (BE, BG, CY, CZ, DE, EE, ES, FR, GR, HR, HU, LT, LU, PL, PT, RO, SE, SK).

There were also 54 further audits, covering 19 Member States, organized as remote audits, a number of them followed up by on-the-spot missions.

10. 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:

For the third year in a row, the error rate is below 2% for the CAP as a whole, and remains below 2% for the seventh year in a row for direct payments. A certain level of error is inherent to any system, so a "zero error" situation is not attainable at reasonable costs.

Despite the fact that the error rate in Rural Development is above 2%, great progress has been achieved as the error rate went down compared to previous years: from 5.19% in 2013 to 2.85% in 2021.

The Commission has taken several actions to both prevent and address the errors, which proved their effectiveness, considering the high level of assurance attained in the CAP:

• monitoring the quality of the Integrated Administration and Control System (IACS), including the Land Parcel Identification System (LPIS);

• ensuring that remedial actions properly address the underlying causes of errors and Member States ensure the proper implementation;

• providing guidance, fostering capacity building and exchange of best practices and streamlining the legislation including on assurance and audit (e.g. the Learning Network of paying agencies);

• encouraging the use of Simplified Cost Options;

• regularly exchanging with the Member States including on allegations of irregularities.

• ensuring the reliability of the national authorities (e.g. accredited paying agencies and certification bodies) and reporting of correct financial data.

It should be noted that actions plans are an important tool to target deficiencies in control systems as well as fulfilment of accreditation criteria by the paying agencies. In the framework of the follow-up of the reservations introduced in the DG AGRI Annual Activity Report 2021, the Commission sent requests to submit or update actions plans to the concerned Member States and is currently following up on the replies. Within the 2021 Annual Activity Report exercise, 12 new Action Plans were requested and there are 23 ongoing Action Plans, continued from 2020 or earlier.

Moreover, simplification of rules has been contributing to preventing errors. In the future, the New Delivery Model would support this objective and allow Member States to tailor the interventions to their needs. In the new CAP, there is also an emphasis on use of new technologies (like the Area Monitoring System), which should also help tackle errors. In addition, continuity of what works well in the CAP, for example having accredited reliable paying agencies, is the foundation of the CAP assurance model and will continue to contribute to a low error rate on the CAP expenditure.

Questions concerning Arachne and other systems

11. What is the progress in the implementation of ‘checks by monitoring’ in the Member States, and what measures are the Commission taking to promote its use and support Member States?

<u>Commission’s answer</u>:

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 2022, the number of Member States opting for Checks by Monitoring has increased with respect to 2021, from 10 to 12 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.

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 CAP Horizontal Regulation (Regulation (EU) *2021*/2116) provides that the AMS will be 'fully operational' in 2024, thus expanding the automated satellite processing to other area-based interventions and eligibility conditions. This in a nutshell will significantly increase the automated processing of satellite data for CAP monitoring purposes in the EU.

12. What is the progress of implementation of ARACHNE? How is the Commission promoting its use? Have you identified any specific issues preventing its widespread adoption?

<u>Commission's answer</u>:

The Arachne integrated IT system for data-mining and risk scoring has been designed and developed by the Commission since 2009 and progressively put into operation since 2013 by DG EMPL and DG REGIO, followed by DG AGRI since 2019 in cooperation with a few Member States initially. It offers to the Member States a tool to facilitate the controls performed by the Member States for project-based expenditure. Currently, 19 Member States and the UK are using ARACHNE, including nine Member States which are either already using (seven Member States) or testing (two Member States) the tool for Rural development expenditure, and more showed interest in or entered preliminary discussions with the Commission.

The data-mining tool can be useful for checking circumvention, conflicts of interest, project selection, risks of double-funding, concentration of projects at contractors' level, fraud prevention, and durability commitments, etc. Pursuant the new CAP legislation for 2023-2027, the use of Arachne is currently envisaged on a voluntary basis by the Member States.

At the moment, there are developments to make the tool suitable for all CAP expenditure, in particular, to check direct payments and information on groups, to enrich IACS data and run checks on circumvention, active farmers and so on.

The Commission will assess the use of the single data-mining tool and its interoperability, and present a report by 2025 to the co-legislators. Moreover, the Commission's proposal for the revision of the Financial Regulation includes making the use of 'Arachne' compulsory for the Member States in all the management modes of EU spending programmes adopted under and financed from the post-2027 multiannual financial framework.

Although the Member States that use this tool have found it to be useful, some obstacles have hindered its widespread adoption. Among the difficulties are data collection, accuracy issues, human resources training, and data protection concerns.

The Commission will keep doing its utmost to encourage the Member States to use this data-mining tool. The Commission services have organised several workshops and several bilateral meetings with Member States to promote its usage among the paying agencies for the CAP.

13. 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 un update 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 agrees that Arachne is a powerful tool in the fight against fraud and recalls that it already proposed the mandatory use of a single data-mining and risk-scoring tool. The final political agreement reached for the new CAP provides for the voluntary use of Arachne as for the other shared management policies. 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, highlighting its usefulness for checking circumvention, conflicts of interest, etc.

Moreover, for the new CAP, there is a review clause requiring the Commission to present, by 2025, a report which will assess the use of the single data-mining tool and its interoperability with a view to its generalised adoption by the Member States. While the use of Arachne remains on a voluntary basis for the 2021-2027 financial framework, all texts (including the Inter-institutional Agreement of 2020 – "IIA") contain a requirement for the Commission to provide Member States with a single data-mining tool to be used for control and audit purposes, with a view to a generalised application by the Member States as of 2028. The Commission will keep doing its utmost to encourage the Member States to use this data-mining tool. Furthermore, the Commission in its proposal for the revision of the Financial Regulation (EU, Euratom) 2018/1046 (COM(2022) 223 final of 16.05.2022), has put forward the proposal for the mandatory use of Arachne for all Member States for all the management modes of EU spending programmes adopted under and financed from the post-2027 multiannual financial framework..

Regarding the CAP, in the current period, nine Member States are either already using (seven Member States) or testing (two Member States) the tool for Rural development expenditure. More Member States are enquiring about the tool and showing interest in using it.

As to Copernicus Sentinel, the data is available to all Member States free of charge. A large number of Member States is 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 (CbM) 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 12 Member States. The EU-funded NIVA (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 is mandatory for all Member States, builds on the existing Checks by Monitoring technology and uses as a main source of information the Copernicus data.

Questions concerning specific cases

14. 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.

On 31 October 2022, the Messina Tribunal issued a judgment (first instance and therefore not final) with long prison sentences for the participants to the criminal scheme. 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. There were also examples 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.

Several cases detected with the use of satellite technology have been opened in Italy.

15. 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 ongoing 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, which includes an update to the situation presented last year.

Italy

As regards Italy, in market measures in total nine enquiries were launched since 2019 covering producer organisations, wine restructuring, wine promotion in third countries, promotion of agricultural products, sugar levy reimbursements and avian flu measures. Two enquiries launched in 2019 corresponding to producer organisation were finalized in 2022, resulting in significant financial corrections due mainly to deficiencies in the eligibility of specific costs. The enquiry on sugar levy was closed without financial corrections. The rest of the enquiries are still ongoing. Furthermore, the paying agency ARCEA has demonstrated that the issue found in several DG AGRI audits, related to the use of different geographical information systems (GIS) resulting in different land uses for the same parcel and an incorrect maximum eligible area in the LPIS, is being corrected. A DG AGRI audit in 2022 has not detected any further issues related to LPIS area measurements.

Slovakia

Concerning Slovakia, for direct payments, 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, the last audit in Slovakia was carried out in 2020 and finalized with a financial correction for serious deficiencies concerning the establishment of unit costs for restructuring and conversion of vineyard and for deficiencies in the establishment of unit costs and on-the-spot checks for EU school scheme.

Concerning rural development measures in Slovakia, 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. A DG AGRI audit in 2019 detected deficiencies in crosschecks and on-the-spot checks for several IACS measures. Another DG AGRI remote audit, carried out between December 2020 and February 2021, in order to take stock of actions taken by the Slovak authorities to protect the financial interests of the EU, identified serious deficiencies in all non-IACS measures. The certification body also had findings for IACS and non-IACS measures, supporting the deficiencies identified by DG AGRI. 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 the ongoing and the 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. Regarding the recent conflict of interest allegations for the Director of the paying agency, DG AGRI sent a letter to the Slovak authorities on 19 November 2022 requesting more information and is following up during an on-the-spot mission taking place during the week of 21 November 2022.

DG AGRI closely cooperates with OLAF to ensure full coordination within the respective mandates. 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 subsequently suspending 10% of the payments declared in all quarters of 2020 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 and suspension 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. From the third quarter 2021, Slovakia has temporarily suspended all payments for the concerned measures in order to minimise a negative impact on the national budget. The payments have been resumed by the Slovak authorities in the second quarter of 2022. Pending the outcome of conformity audit procedure, 25 % of the expenditure declared for the concerned measures was interrupted in the second quarter of 2022 and will still be continued for third quarter. 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. On 14 October 2021, the Slovak Competent Authority restored the accreditation of the Paying Agency as of 15 October 2021 until 15 October 2024. The Slovak authorities continued to implement corrective actions under the "Transformation plan". DG AGRI is following up the progress through bi-monthly reports. An on-the-spot mission is currently underway, in the context of the ongoing accreditation audit, to follow-up implementation of the actions related to the allegations of conflict of interest arising in 2022.

16. Did Slovak Paying Agency ("APA") make a payment declaration to the Commission in July 2022 regarding the resumption of EAFRD non-IACS payments?

Commission's answer:

Yes, the Slovak paying agency declared the expenditure related to non-IACS measures, including those, for which the payments were suspended in the past quarters, to the Commission in its declaration of expenditure for the second quarter of 2022, and the third quarter of 2022. Please see also reply to questions 15 and 17.

17. Did DG AGRI resume the EAFRD non-IACS payments to Slovak Paying Agency, and if so, under what conditions?

Commission's answer:

Given an existing risk to the financial interests of the EU and pending the outcome of a conformity clearance procedure, DG AGRI took the precautionary measure of interrupting the payment deadline for 25% of expenditure for the concerned non-IACS measures declared to the Commission in the second quarter of 2022. The interruption of payments is to continue until the finalisation of the conformity clearance procedure that would conclude on the risk to the fund. The letter to the Member State evaluating the expenditure to be excluded from the Union financing is expected to be sent by the end of April 2023. In case the Slovak authorities would agree with the Commission's assessment, the audit will be finalised with the Decision of the Commission excluding from the EU budget the amount considered ineligible. If the Slovak authorities request a conciliation procedure, the enquiry will not be finalised before the first quarter of 2024. See also reply to question 15.

18. What is the status of the conformity inquiry assessing the corrective actions put in place by the Slovak authorities to ensure the Paying Agency's compliance with the accreditation criteria?

Commission's answer:

The audit is currently ongoing and is expected to be concluded in second half of 2023. In order to ensure the objectivity of the administrative procedure, and in line with the international audit standards, the Commission standard practice is not to provide information on ongoing audits before it has taken a final position. See also the reply to question 15.

19. When will the Commission deliver the final assessment on APA's implementation of the accreditation action plan and transformation plan and whether the Paying Agency complies with the accreditation criteria?

Commission's answer:

The Commission will deliver the final assessment once the ongoing audit is concluded – in the second half of 2023. See also reply to question 18.

20. Did the Commission incorporate the findings of the Court of Auditors Special Report "The Commission's response to fraud in the Common Agricultural Policy; Time to dig deeper" in its assessment of PPA's compliance with accreditation criteria? The report found that areas, which had been claimed for years by some companies, were not covered by valid lease contracts and that national checks on applicants' legal basis for claiming the land were minimal, and were applied only in the case of overlapping claims.

Commission's answer:

Following the ruling by the European Court of Justice C-216/19, Land Berlin, in June 2021 DG AGRI has issued a Note to the Member States (Ares(2021)4784364) on the requirements of 'eligible hectares at the farmer's disposal, which encompasses the issue of areas not covered by valid contract. The note insists that while Member States have the right to presume that the beneficiaries asking for direct aid have the land at their disposal, still they have an obligation to carry out systematic administrative controls in the light of their national specificities, to ensure that the land use is lawful and based on a valid legal title (or equivalent mean under national law e.g. undisturbed possession) and not only in cases when there is a double claim on the same parcel.

Concerning the Special Report 14/2022, the Commission has readily accepted the recommendations made by the European Court of Auditors, which are in line with the activities that the Commission is already implementing. In this regard, the Member States are already applying the DG AGRI's guidance note on the issue of land at farmer's disposal (issued in June 2021).

This is also subject to review as part of DG AGRI audits.

Under shared management of the CAP implementation, Member States are responsible to check the beneficiaries' rights to take the commercial decisions linked to particular land parcels. Effective control framework in that respect is compulsory under the CAP legislation.

However, abuse or_fraud by economic operators should be seen in the context of law enforcement.

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