2022 Discharge to the Commission

WRITTEN QUESTIONS TO COMMISSIONER
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Hearing on 26 October 2023

Questions concerning errors, and audit-related issues

1. For the ECA Annual Report 2022 (ECA AR 2022), auditors audited 218 transactions under MFF heading 3 that cover 17 member states and the UK. Of these, 46 transactions (21%) contained errors. (ECA AR 2022, 7.13). What kind of errors did you identify? Could you provide us with more details? Were there any errors linked to financial damage or misuse of funds? What measures are you implementing to lower the error rate?

Commission’s answer:

The European Court of Auditors (ECA) found 32 quantified errors (with financial impact) and 15 compliance issues without impact on the error rate. Details on the errors identified by the ECA are presented in its Annual Report for 2022, Chapter 7 on Natural resources and environment, paragraphs 7.15, 7.16, 7.17 and in Figure 7.3 (which gives a breakdown of ECA estimated level of error for 2022, by category of error). From the quantified errors, which have a financial impact, 8 of them have a financial impact below 100 EUR (over-declarations) and for most of them, the amount misspent is below 1000 EUR.

Generally, while the error rate remains below 2% for direct payments, a certain level of error is inherent to any system, so a “zero error” situation is not attainable at reasonable costs.

Also, for rural development, despite the fact that the error rate is above 2%, great progress has been achieved: the Commission’s estimate of the risk at payment went down compared to previous years: from 5.19% in 2013 to 2.68% in 2022.

The Commission has taken several actions to both help prevent and address the errors, which proved their effectiveness, considering the high level of assurance attained in the Common Agricultural Policy (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 2022, the Commission sent 25 requests to submit or update actions plans to the concerned Member States and it is analysing the replies. Within the 2022 Annual Activity Report exercise, 9 new action plans (as compared to 12 in 2021) were requested and there are 16 ongoing action plans, continued from 2021 or earlier.

Moreover, simplification of rules has been contributing to preventing errors. The CAP New Delivery Model supports this objective and allows 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.

The Commission also refers to its reply under questions 3, 5, 7, 8, 10, and 11.

2. ECA estimated that 42% of the estimated level of error can be found in the provision of inaccurate information on areas or animals. (ECA AR 2022, Figure 7.3). What concrete measures are you implementing to ameliorate the situation? What are the problems and obstacles? Do farmers need better instructions for the forms in order to fill them out correctly? What measures have you taken to better measure land areas (e.g. the wider use of the Satellite Systems etc.)?

**Commission’s answer:**

For many years, the Commission is encouraging Member States to use satellite data. Very-high precision satellite imagery is for example used for measurement of area (in the scope of LPIS, LPIS Quality Assurance (QA) and Geo-Spatial Application (GSA) QA). Lower-resolution satellite data (Copernicus Sentinel) is used to monitor land use and agricultural activity on the parcels (in the scope of the Area Monitoring System (AMS) and the AMS QA).
Since the previous CAP implementation, the Commission continuously encouraged Member States to make use of new technologies to improve the accuracy of the recorded information of their Integrated Administration and Control System (IACS). Indeed, since 2018, Member States have the obligation to set-up a Geo-Spatial Application (GSA) IT system through which farmers are obliged to submit their area-related measures/interventions claim. This system should provide farmers with prefilled information on their land, which is mainly based on data from the Identification System for Agricultural parcels (LPIS), as well as GSA data from the previous year.

For the implementation of the 2023-2027 CAP, not subject to this discharge though, the Commission has introduced three elements to render the pre-filled information as precise as possible. First, Member States now have the obligation to update their LPIS data at least once every 3 years. Second, the Area Monitoring System (AMS) was introduced in order to provide real-time information on land use for 100% of the parcels subject to support. This improves the information recorded in the LPIS and allows to correct GSA data during the year if needed. Finally, annual quality assessments are now mandatory for the GSA, LPIS and AMS. These ensure that each of these systems function with a sufficient quality.

3. ECA auditors state that in 19 cases of quantifiable errors, the member state authorities and Commission had sufficient information to prevent, or to detect and correct, the error before accepting the expenditure. Are the errors committed in an unintentional way so that there is no real damage or are they done intentionally to circumvent rules? What measures has DG AGRI taken to make better use of the information provided to avoid quantifiable errors? What steps has DG taken to work more closely with member state authorities to avoid quantifiable errors? What steps is DG AGRI taking to reduce overly bureaucratic rules and measures that burden farmers excessively? What kind of measures is the Commission implementing to reduce bureaucratic burden in a concrete manner to make rules easily implementable and understandable?

**Commission’s answer:**

It should be recalled that under shared management, it is for the Member State to prevent or to detect and correct errors before the payments to the beneficiary. This is the case in the CAP which is concerned with 17 of the 19 cases of quantifiable errors mentioned by the ECA.

As per ECA’s Annual Report, *Chapter 7 Natural resources and environment*, most of the errors come from provision of inaccurate data on areas or animals or reimbursement of ineligible costs. It should also be recalled that not all such errors can be detected at the grant or payment application phase. In fact, in some cases, errors may only be identified at a later stage (for example during an in situ visit, ex post control or even reperformance of controls).

Most often such errors are unintentional. They are different from fraud, which involves an intentional act.
In the few cases where the ECA suspects fraud during its audits of the EU expenditure, it reports directly to the European Anti-Fraud Office (OLAF), as the Commission/DG AGRI is not in the position to distinguish between suspected intentional or unintentional errors identified by ECA. If fraud or serious irregularities are detected by the European Anti-Fraud Office (OLAF), the Commission makes sure any misappropriated funding can be recovered from beneficiaries.

On what concerns the steps taken by DG AGRI to work more closely with Member State authorities so that they can avoid quantifiable errors, it should be recalled that, in the CAPs shared management system, the Member States are responsible to set up the CAP management and control system at national level. Paying agencies, that play a key role in the national system, are to ensure an internal control system that functions satisfactorily. The Commission has provided guidelines as regards the set-up, assessment, audit and monitoring of the internal control system of the paying agencies. Through the submission of annual control reports and the assurance package, paying agencies and their auditors (the certification bodies) report on the operation and results of the internal control system. Member States are encouraged to take mitigating actions when weaknesses in the control system are detected. When necessary, the system weaknesses are followed up through conformity audits by the Commission to determine the risk to the Union budget. Common deficiencies in the systems detected by the Commission’s audits or by audits by certification bodies, treatment of errors, methodologies of auditing CAP expenditure are discussed with Member State representatives in expert group meetings, conferences, other national capacity building events. The related guidelines are made available to Member States on the relevant Commission platforms.

Moreover, the 2023-2027 CAP Delivery Model aims to simplify the rules and allows Member States to tailor the interventions to their needs. In the new CAP, there is also an emphasis on the 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.

Please see also replies to questions 1, 2, 7 and 8.

4. ECA tested 88 direct payment transaction and found 6 minor quantifiable errors and one major error. The major error was a lemon farm in Italy that did not exist. (ECA AR 2022, Box 7.3). How big the financial damage? Were the managing, paying and audit authorities involved in the plot as Italy has satellite systems and an interoperable control system at its disposal? Has DG AGRI widened the scope of monitoring and control in Italy to identify if there is a systemic problem in the audit, control and managing authorities? Errors in statements of eligible areas of agricultural land should not occur. Examples such as the lemon farm in Italy that does not exist reflect badly on the agricultural policy and EU funding. What steps are being taken to more accurately find errors in farmer’s estimation of land? How many missions did DG AGRI undertake in the last year and on what basis? What concrete consequences and sanctions has the Commission imposed if farmers overestimate purposely the area of eligible land?
Commission’s answer:

The error identified by the ECA concerned a payment application in amount of EUR 8349.06 for measure “Payment for agricultural practices beneficial for the climate and the environment”. As per ECA’s assessment of this error, the amount unduly paid was EUR 6628.64. Most of the error stem from three parcels, where the ECA auditors identified that the parcels declared with permanent crops (lemon) did not have lemon trees and were not maintained, therefore could no longer be considered as agricultural land.

However, the same areas were already correctly classified by the paying agency as abandoned tree crops in 2022. The paying agency indicated that it has already taken the necessary actions, including recovery for claim year 2021. The Commission/DG AGRI is following up to ensure the recovery of the funds unduly paid.

As for measures for finding errors more accurately in the farmer’s estimation of land, the LPIS is also subject of Commission audits. As part of the management and control system, Member States must put a system in place to assist farmers to correctly declare their land – the “land parcel identification system” (LPIS). This system is also used by the paying agencies to carry out checks and to detect errors in the farmers’ declarations. The Commission is aware that in Italy, this system is not fully compliant with the European Union requirements and audit services are assessing the extent of the problem in the context of ongoing audits, to determine exclusion of some expenditure through financial corrections. During its audits, the Commission also asks the Member States – Italy in this case – to put in place corrective measures so to address the shortcomings detected.

In deciding on the audits that it would carry out, DG AGRI prepares a rolling multiannual audit programme based on risk assessment.

In 2022, DG AGRI auditors have carried out follow-up audit missions to Italy, two for European agricultural guarantee fund (EAGF) and two for European agricultural fund for rural development (EAFRD). These audits are assessing the situation in the entire Italian territory and are still ongoing. No further details can therefore be provided at this stage. The EU legislation foresees a system of reductions and sanctions if farmers overestimate the area of eligible land, which is proportionate and which imposes larger sanctions when the over-declaration of land is high, and can go as far as exclusion from the aid scheme together with an additional penalty in the subsequent year. The Member States also must have a system in place to detect fraud and irregularities and a specific antifraud strategy at the level of the paying agency.

5. In a sample of 52 investment projects in rural development payments, 8 errors were found where beneficiaries declared expenditure that did not meet eligibility criteria. For example, a French farmer received start-up funds meant for young farmers wanting to start a farm. However, he had already been head of an agricultural holding company for 10 years. What steps are you taking to make sure that applicants meet the eligibility criteria before approving and transferring EU funding?
**Commission’s answer:**

In the CAP system of shared management, it is the Member States’ responsibility to put in place management and control systems for the CAP. As part of these systems, Member States have procedures in place and checks to ensure that the applicant fulfils all eligibility criteria of the aid scheme. The audit work of the certification body on legality and regularity also covers the eligibility controls and assessing whether the systems function properly. Certification body may propose recommendations for improvements of the systems that should be implemented by the paying agencies. Finally, the Commission also conducts audit missions to check the Member States systems and if deficiencies are found, a financial correction may be proposed, and remedial actions would need to be implemented to address the issues.

Please see also replies to questions 1 and 3.

6. The error rate estimated by the ECA has increased from 1.8% in 2021 to 2.2% in 2022. What factors does the Commission believe may have produced this increase?

**Commission’s answer:**

For the Chapter *Natural resources and environment*, which, besides CAP, includes also other spending areas related to fisheries, climate, and the environment, the ECA points to an error rate of 2.2%. The ECA itself does not point to any specific reasons for the slight increase in the error rate for Chapter 7 in its report.

Based on its robust assurance framework and its detailed assessment, the Commission considers that its own estimate remains consistent with the results obtained in the last years by the Commission and the ECA. In the Annual Management and Performance Report (AMPR), the Commission reports a non-material risk at payment for *Heading 3: Natural resources and environment*, based on hundreds of thousands of checks carried out every year by the Member States and audits by the Commission. With its detailed approach, the Commission can identify the specific parts of the programme population that are most likely to be affected by errors, to clearly identify the areas where the improvements are needed, to apply financial corrections where appropriate and to give a differentiated view of the level of error across the payments made. Based on the work carried out, the Commission considers that its risk at payment is representative of the level of error.

For the CAP specifically, the estimated error rate is 1.76%, as presented in the 2022 Annual Activity Report of DG AGRI. This level of error is within ECA’s range for Chapter 7 in its Annual Report.

7. In the paragraph 7.18 of the ECA 2022 AR, the Court states that in 19 cases of quantifiable errors, “the Member State and the Commission had sufficient information to prevent, or to detect and correct, the error before accepting the expenditure. Had the member state authorities and the Commission made proper use of all the information at their disposal, the estimated
level of error for this chapter would have been 1.3 percentage points lower”. What is the Commission's response to this statement, and what measures does it intend to take to improve the use of the information available?

**Commission’s answer:**

It should be recalled that in shared management, it is for the Member State to prevent or to detect and correct errors before the payments to the beneficiary. This is the case in the CAP which is concerned with 17 of the 19 cases of quantifiable errors mentioned by the ECA.

Simplification of rules contributes to preventing errors. The CAP New Delivery Model supports this objective by allowing Member States to tailor the interventions to their needs as well as to set up their control systems in a way appropriately supporting the implementation of their CAP Strategic Plans.

The Commission has also been encouraging the use of Simplified Cost Options. The Member States will be also monitoring the quality of the Integrated Administration and Control System (IACS), including the Land Parcel Identification System (LPIS) through Quality assessments based on methodologies provided at Union level.

Concerning the use of information, the Certification bodies have been delivering an opinion on legality and regularity of expenditure for eight years now. Thanks to Commission’s capacity building actions (issuing guidelines, regular expert group meetings), their reports contain sound, substantial and valuable information on the legality and regularity of expenditure. This information is examined in detail by DG AGRI and was the basis for the calculation of DG AGRI’s adjusted error rate for financial year 2022. The Commission further stresses that, because of all corrective actions for the CAP (estimated at 1.5%), the final amount at risk (risk at closure) for the CAP in 2022 is estimated at 0.35%, as presented in DG AGRI’s AAR 2022.

Also, resources of paying agencies are limited and should be used in proportion to the risk. Certain errors are impossible to avoid at a reasonable cost. Reservations help to identify areas where systemic deficiencies must be addressed. The Commission will continue working with the Member States, in particular, through the implementation of action plans aimed at addressing weaknesses in a pointed and focused manner.

The same approach applies for the two cases of quantifiable errors in direct management (in the LIFE programme), where resources are also limited and the cost-benefit of controls must be optimized. Furthermore, it should be noted that there can be divergences in the assessment of eligibility of costs between the ECA and the Commission.

The Commission also refers to its reply under questions 3 and 15.

8. Inaccurate area or animal declarations are the biggest contributor to the error rate, followed by cases of non-eligibility. What steps has the Commission taken to improve the way in which these types of errors are avoided or detected?
**Commission’s answer:**

With 6.3 million beneficiaries of the CAP, European agricultural guarantee fund (EAGF) and European agricultural fund for rural development (EAFRD), expenditure is implemented under shared management through a comprehensive management and control system, which is designed to ensure the legality and regularity of the underlying transactions at the level of the final beneficiaries. The robust assurance model of the CAP includes the first level controls by the paying agencies, the audit work carried out by the independent certification bodies and the Commission’s own work through the clearance of accounts. The Commission is working closely with the Member States to ensure that their management and control system is working properly, to prevent and detect the errors.

Whenever deficiencies have been identified in the Member States’ management and control systems (through Commission audits or by the certification bodies), remedial actions, also in the form of action plans, are put in place to address these deficiencies. The Commission is monitoring the implementation of the action plans, as well as the certification bodies. In their annual audit reports, certification bodies report to the Commission on the state of play of these action plans and on the effectiveness of the remedial actions put in place. Moreover, when the error rate is above 2%, the Director of the paying agency concerned must provide the Commission in its Management Declaration (to be submitted within the annual accounts) with the root causes of the errors contributing to that high error rate and with the remedial actions already put in place, and those that are still under implementation to address the deficiencies identified.

Ultimately, when errors are not tackled and when action plans are not addressing the weaknesses, the Commission may suspend payments and impose financial corrections.

The Commission is providing guidance documents to Member States which address the challenging issues, such as the selection criteria or conflict of interest.

Moreover, the Commission is organising regular meetings with the responsible bodies in the Member States (paying agencies/Ministries). For example, for rural development, nine seminars on error rate in rural development were organised so far (replaced later by a dedicated session in the Rural Development Committee). Similarly, for area-aids and animal-related voluntary coupled support, Expert Group meetings are organised; they address technical questions and provide additional guidance. These meetings also include the ones on the certification of accounts/assurance package organised twice a year, where the Commission provides further guidance to the paying agencies on the implementation of reinforced accreditation criteria, and discusses the related audit methodologies with the certification bodies. The issues related to the high error rates and the remedial actions put in place to address the deficiencies identified are often discussed.

Furthermore, the annual conference with the Heads of the paying agencies for the CAP is also an opportunity to continue the exchanges of best practises.

The Commission also refers to its reply under questions 1, 3 and 19.
9. 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?

Commission’s answer:
In 2022, twelve Member States were using Checks by Monitoring (CbM). The Commission has developed guidance documents, organised various meetings and webinars with stakeholders, and launched the ‘Checks by Monitoring’ outreach effort to tackle perceived or actual technical hurdles in the use of Sentinel satellite data for CAP monitoring.

The concept of CbM is no longer part of the 2023-2027 CAP. As of 1 January 2023, Member States are legally required to implement the Area Monitoring System (AMS) which builds on the CbM approach and integrates the use of new technologies to monitor eligibility conditions of area-based interventions under the integrated system. The Commission supports Member States in their implementation of the AMS by providing platforms to exchange on best practices, including Workshops and Group of Expert meetings.

10. What is the progress of implementation of ARACHNE in this area? The use of this tool is relatively recent by DG AGRI, what are the main obstacles to its use and what measures have been taken in this respect? Does the Commission have any data on the use of ARACHNE and the number of cases of double funding or conflicts of interest detected compared to previous years?

Commission’s answer:
In 2023, there has been an increase in the Member States using Arachne for the CAP compared to previous year.

The current status of the ARACHNE project for the CAP is:
- 13 Member States using the tool for at least some measures.
- 5 Member States attended or requested ‘general introduction to Arachne workshop.

The Commission services are actively working on the automation of data transmission, and the automated upload of Member States data into the current ARACHNE should be possible already in November 2023, which would allow for a more regular supply of Member States data into ARACHNE. Moreover, the automated upload of the current ARACHNE data into Member States national databases should be possible in the first quarter of 2024. These developments represent significant improvements of ARACHNE in terms of speed and data quality.

The main obstacles for the Member States are the administrative burden and the high number of risk indicators, similarly to the obstacles faced for the other Funds.
The Commission organised an Expert Group Meeting to further explain the process for uploading information in ARACHNE, its different uses for approving projects and payments, and presented the main risk indicators applicable for AGRI funds – with the examples.

This Expert Group meeting is complemented by more general training sessions on the tool and also by coordination and discussions with paying agencies in specific forums, such as the Learning Network and the paying agency conferences.

In addition, there are developments underway to make the tool suitable for the CAP and for checking direct payments and the information on the group to which a beneficiary belongs.

The Commission’s proposal for the recast of the Financial Regulation includes provisions on the compulsory use of ARACHNE by the Member States as of 2027, to allow for the necessary IT developments. The trilogues with the co-legislators are ongoing.

While the Commission proposed compulsory use, it is also aware of Member States’ concerns over administrative burden and data protection. This is why the Commission strives to demonstrate the tool’s benefits to the Member States, emphasising how it will reduce their administrative burden. The improvements already delivered (e.g.: the ability for Member States to upload the national dataset through an excel template) and to be delivered for automatic uploading of data are the kind of information that should help address the concerns of increased administrative burden.

Throughout the years, the Commission has reported a rising trend in the number of programmes and projects that upload data to ARACHNE, including for the rural development programmes under the CAP – there has been a marked rise in the quarterly use of the tool, as evidenced by the increased number of connected users.

The Commission services do receive data on the use of ARACHNE by the Member States in terms of active users in the system but do not receive information on the number of cases of double funding or conflict of interest detected by the paying agencies with the use of the tool. On this later point, ARACHNE may raise a flag (a suspicion) concerning a transaction, but the establishment of an irregularity (such as double funding or conflict of interest) or not is a result of additional checks, to be performed by the paying agencies.

11. According to Commission estimates, the risk at the time of payment is 2.7% in rural development and 2.9% in market measures, both above the materiality threshold. What are the main sources of error in these areas and what specific measures has the Commission put in place?

**Commission’s answer:**

For project-based expenditure (rural development and market measures), the adjusted error rate (risk at payment) remains above 2%, as these are complex, targeted policy blocks with a great variety of measures.
**The market measures** are highly diversified with their own dedicated and distinct control systems. Moreover, certain schemes are implemented at national level, sometimes with multiple paying agencies in charge. Despite a slight increase of the risk at payment in financial year 2022 to 2.9%, it is still in the range of previous years being 2.43% in 2020 and 2.12% in 2021. One reason for this increase compared to previous years is the high amount at risk calculated for paying agency France Agrimer due to late payment issues, as presented in the Annexes to the Annual Activity Report. Where the Commission detects deficiencies in the functioning of the management and control system, it usually requests an action plan. As such, the Commission requested an action plan to be implemented by France Agrimer to address the root causes of errors.

Other issues detected in Member States included deficiencies in the administrative checks to establish eligibility of support or concerning other aspects of control in various measures, insufficient on-the-spot checks, late payments and the findings by the Certification Bodies.

**In rural development measures,** although the risk at payment in financial year 2022 remains above 2% (2.68%), it confirms the positive trend of previous years being 2.92% in 2020 and 2.85% in 2021.

The following deficiencies were revealed during the audits carried out in 2022 in rural development in relation to **IACS and Non-IACS measures:** e.g., non-respect of the minimum on-the-spot control rate and controls delays, insufficient verifications of eligibility commitment and insufficient prevention of double-funding, insufficient checks as to the eligibility of the applicant-application-project-investment, public procurement procedures issues and reasonableness of costs.

For more details on the types of errors detected, please see DG AGRI’s Annual Activity Report 2022 – annexes¹: Annex 7, Part 3.1 for market measures and Part 3.3 for rural development.

The Commission is following up on the identified issues. Action plans are requested where needed, and deficiencies will need to be followed up through remedial measures by the Member States, and through audits by the Commission.

**Simplification** of rules contributes to the prevention of errors. The New Delivery Model supports this objective by allowing Member States to tailor the interventions to their needs. In the new CAP, there is also an emphasis on the use of new technologies (like in the Area Monitoring System), which should also help tackle errors.

The Commission **takes several actions** to address errors by:

- providing guidance, fostering capacity building and exchange of best practices and streamlining the legislation;
- encouraging the use of Simplified Cost Options;

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¹ Annual activity report 2022 - Agriculture and Rural Development (europa.eu)
monitoring the quality of the Integrated Administration and Control System (IACS) and the Land Parcel Identification System (LPIS);

- ensuring that action plans and remedial actions properly address the underlying causes of errors;

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

- Requesting the competent authorities to put the paying agency’s accreditation under probation in case of serious deficiencies in the paying agency’s compliance with the accreditation criteria.

The Commission is also working closely with the certification bodies to ensure their work is reliable and can be used for the Commission assurance building purposes.

Please also see our reply to question 1.

12. The Commission believes that small over-declarations do not necessarily indicate specific weaknesses in the MS’ management of the LPIS. How does the Commission explain that over-declarations of area increased in 2022 to 16 errors (up from 4 in 2021)? Furthermore, how does the Commission distinguish between errors made by farmers and attempted fraud? What additional efforts, on top of its regular audit and control activities, is the Commission deploying to address the ECA’s 7.1 recommendation on the LPIS?

**Commission’s answer:**

As regards the increase detected by the ECA in the number of small over-declarations of areas in comparison with 2021, in the Commission’s view, it would be more relevant to observe the trend over several years, and not just compare the results over two years. As such, the Commission notes that, looking at the situation over several years, the number of small over-declarations in 2022 remains in line with the levels detected by the ECA for 2020 and previous years (e.g., the over declarations in 2021 dropped to 4 from 12 such errors in 2020 and 17 in 2019).

While LPIS is the basis for the geospatial aid application, over declarations may also stem from errors made by farmers, which seems very likely to be the case in the mentioned instances of small over-declarations. Consequently, the Commission considers that the small over-declarations do not necessarily indicate specific weaknesses in Member States’ management of the LPIS.

The Commission recalls that under shared management, Member States are responsible for checking individual transaction, therefore also for making the assessment whether an irregularity was committed intentionally, leading to the establishment of fraud.

To be noted that administrative sanctions consider the element of intentionality in the intensity of the penalty to be applied (see for example Articles 4 and 5 of the PIF Directive).
An irregularity can also be a criminal offence, specifically a fraud according to the definition of the PIF Directive, when the related elements are fulfilled. For these cases, also the attempt to commit a crime can be sanctioned. However criminal offences belong to the remit of national prosecutors, police authorities, OLAF and EPPO.

Concerning ECAs recommendation, the Commission accepted it, referring to the legal requirement on the LPIS Quality Assessment, laid down in Article 68 of Regulation (EU) 2021/2116 and recital 59 of the said Regulation on the Member States’ obligation to report on the quality of their LPIS. Accordingly, the Commission continues its annual evaluation of Member States’ LPIS quality assessments. The Commission considers that the recommendation was implemented with this year’s monitoring of the LPIS quality assessments.

13. Does the Commission believe that the 2-year transitional period for the CAP has had any impact on the error rate? If so, in what way?

**Commission’s answer:**

At the end of 2020, the co-legislators agreed on the two-year transitional period for the CAP. With this, the 2014-2020 rural development programmes were extended by 2 years (2021 and 2022) and cover two multi-annual financial frameworks (MFFs): 2014-2020 and the first two years of 2021-2027.

With the strong foundation of a robust CAP framework already in place for many years, the Commission considers that the transitional period for the CAP did not have a negative impact on the error rate, as the rules for the CAP were simply extended for two more years.

Indeed, for the fourth year in a row, the error rate reported by DG AGRI 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.

Even though the error rate in rural development is above 2%, great progress has been achieved as the error rate went down compared to previous years. Furthermore, the Commission considers that its own estimate of the risk at payment, as presented in the Annual Activity Report of DG AGRI, remains consistent with the results obtained in the last years by the Commission and the ECA.

Please also see replies to questions 1 and 11.

14. The ECA has mentioned conditions resulting from the COVID-19 pandemic as a possible cause for a weakening of controls. What is the Commission’s analysis of this observation, and have any problems in controls or further errors resulting from these conditions been identified?
Committee’s answer:

The Commission and the Member States proved great resilience and adaptability in response to the exceptional circumstances, and paying agencies continued to perform their checks before paying to beneficiaries, and to respect the rules of sound financial management.

During the COVID-19 pandemic, the Commission adapted the legislative framework, so the paying agencies had a possibility to reduce the minimum rates of on-the-spot checks for claim years 2020, 2021 and 2022 to address the difficulties or restrictions to go on the field. There were also possibilities of using alternative methods with technology to carry out the controls under the Covid-19 restrictions. The Commission provided guidance to certification bodies on how to adopt similar alternative methods to re-verify the paying agencies’ checks as regards financial years 2021, 2022 and 2023.

It should be noted that the ECA Annual Report 2022 makes no reference to COVID as a possible cause for weakening of controls in the CAP in its Chapter 7 – Natural resources and environment.

As regards cohesion policy, the Commission recognises that the accounting year 2020-2021 was still a difficult period in all Member States, during which verifications and controls were regularly constrained to be organised remotely, in accordance with the pandemic restrictions for sanitary reasons.

However, in the Commission’s view, the COVID-19 restrictions did not decisively impact on the capacity of the programme managing and audit authorities responsible for European Structural and Investment Funds (ESI) to ensure compliance with applicable rules and to carry out the necessary verifications and audits.

The Commission has been aware of the risk linked to the emergence of new instruments, such as the Coronavirus Response Investment Initiative (CRII and CRII+ initiatives), which added new categories of expenditure to the eligible ones and introduced flexibility measures in programmes implementation. The Commission took measures and since 2020 constantly raised awareness of audit authorities regarding the possible risks associated to these new instruments and the need to maintain high control standards to minimize these risks.

The audits regarding CRII/CRII+ expenditure carried out so far by several Member States or by the Joint Audit Directorate for Cohesion (DAC) demonstrated that such risks materialised in a limited number of cases (see examples provided in the REGIO 2021 and 2022 annual activity reports: fraudulent delivery of masks in IT; irregular emergency procedures used for public procurement in ES or RO). The risks and irregularities identified are not as such attributable to the 100% co-financing or working restrictions during the peak period of the COVID-19 (reduced number of on-spot verifications) but are rather linked to the type of actions implemented during the COVID-19 period or to the conditions for implementation or misunderstanding of the flexibility introduced in public procurement rules. Despite these irregularities found in some programmes, there is no clear evidence, so far, that these types of expenditure have a higher intensity of errors than normal expenditure.
15. What has been the use of Simplified Cost Options (SCOs) in the different spending areas in 2022, and what conclusions does the Commission draw from their use in relation to the corresponding error rates?

**Commission’s answer:**

As regards the Common Agricultural Policy (CAP), area and animal related payments (under IACS), business start-up support and support to producer groups under the EAFRD already make use of output-based payment (per hectare, per livestock unit, lump sums for business start-ups and flat rate of the marketed production for producer groups), as laid down in Fund-specific rules.

The use of SCOs can bring great simplification also for investment-types of operations and LEADER, or other non-area and non-animal related measures, where member states can decide whether to reimburse actual costs or pay according to predefined outputs.

According to DG AGRI estimates, the number of Rural Development Programmes (RDPs) making use of SCOs has gone up significantly to more than 92% of the total RDPs.

The ECA’s Special Report on Simplified Cost Options under EAFRD (2018) concluded that the use of SCOs leads to fewer errors and significant simplification, both for beneficiaries and administrations. The ECA also concluded that the calculation method of the SCO should be assessed. All recommendations were accepted, and the Commission updated the guidance document on SCOs in May 2021, mainly to include the changes introduced by the Regulation (EU) 2021/1060\(^2\) (the Omnibus Common Provisions Regulation), to provide further examples of best practices and to address ECA’s recommendations.

The OMNIBUS Regulation (EU) 2021/1060 included several additional possibilities for SCOs:

- More “off-the-shelf” flat rates;
- Possibility to use draft budget to set up SCOs at individual project level;
- Payments to Member States based on the fulfilment of predefined conditions or achievement of agreed milestones.
- Reimbursement of technical assistance in the form of flat rate.

When Member States come up with their own methodology to establish an SCO rate, they need to ensure that this is fair, equitable and verifiable, following the applicable provisions and relevant guidance.

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\(^2\) Regulation (EU) 2021/1060 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy
It is noted that more and more Rural Development Programmes are introducing further possibilities in the use of SCOs for various measures. Several Member States have also become active in exchanging practices and introducing possibilities for peer-reviews concerning the establishment of the methodology and the different options of SCOs. DG AGRI will continue providing support and organising workshops to address the requests of several Member States in this regard.

The use of Simplified Cost Options is also provided for under the 2023-2027 CAP (Articles 44(1) and 83 of Regulation (EU) 2021/2115 (Strategic Plan Regulation)). The Common Provisions Regulation guidance will however no longer be formally applicable to the SCOs in the new period, as the SPR has its own rules established in Article 44(1) and 83. Nevertheless, as the SCO rules in the SPR are of a general nature, Member States must comply with Article 21 of Delegated Regulation (EU) 2022/126 (as regards sectoral interventions only) and can still use the guidance where relevant as part of their own rules.

As regards European structural and investment funds (ESI), the possibilities to use simplified cost options (SCOs) and Financing Not Linked to Costs (FNLC) are the most important measures to reduce administrative burden on Member States and beneficiaries of ESI Funds. They are also potentially effective in reducing the error rate, facilitating access of small beneficiaries to the CPR funds thanks to simplified management process and allowing organisations to focus on the achievement of the objectives while maintaining a high level of assurance of legality and regularity.

For 2021-2027 programmes in Cohesion policy, the Commission constantly and pro-actively encourages the use by programme authorities of the simplification measures foreseen under the common provisions regulation, in particular the use of simplified cost options (SCO) and financing not linked to costs (FNLC) schemes to tackle eligibility issues, reduce gold-plating and ease management verifications and control burden over beneficiaries. As a result of this effort, for ERDF and Cohesion Fund, 120 SCO schemes at programme level were adopted so far in 11 Member States and for Interreg programmes (EUR 5.7 billion of total contribution) as well as 4 FNLC schemes in 4 Member States (for EUR 1.2 billion of total contribution). To achieve a successful uptake of SCOs, the Commission (DG REGIO and DG EMPL) works in parallel with all stakeholders (including with auditors) on methodological and assurance harmonisation, so that there is sufficient predictability for the beneficiaries on how those options are expected to be designed, implemented, documented and audited.

In addition, the CARE (Cohesion’s Action for Refugees in Europe) package includes a simplified cost option scheme that could be used when providing support to refugees. Around EUR 500 million of the overall amount allocated through CARE is planned to be used under the SCO scheme which allows Member States to claim EUR 100 per week per person for a maximum of 26 weeks, without the need to provide detailed documentation on the purchase of every single item addressing basic needs.

As regards ESF 2014-2020, around one third of the ESF was implemented on the basis of SCOs. Following the successful implementation of unit costs in 2014-2020, for the 2021-2027 programming period, 14 Member States included around 189 SCO schemes in their ESF+
programmes (European Social Fund) with planned amounts of around EUR 7 billion (including national co-financing). All Member States make use of SCOs on the ground; SCOs are mandatory where the total cost of an operation does not exceed EUR 200 000. Therefore, the total ESF+ expenditure covered by SCOs on the ground is even higher than EUR 7 billion.

To date, 4 Member States (PT, PL, LV, HU) have introduced 5 financing-not-linked-to-costs schemes in their programmes. The schemes are estimated to contribute around EUR 3.5 billion (including national co-financing) to the areas of social innovation and inclusion (PT); childcare (PL); technical assistance (LV); formal education (HU) and social inclusion (HU).

Delegated acts on SCOs and FNLC are an important tool to promote simplification under the ESF+ across all Member States, as they provide legal certainty on the methodology used to establish the amounts. The Commission has adopted a delegated act rolling over EU-level SCOs from 2014-20 and setting out new SCOs and FNLC. Furthermore, in 2022, the Commission published the delegated act setting out EU-level simplified cost options and financing not linked to costs in the context of ALMA (Aim Learn Master Achieve) – an initiative implemented by DG EMPL as part of the European Year of Youth. ALMA offers a supervised work-experience in another EU Member State for a period of 2 to 6 months to young people who are not in any kind of employment, education or training.

As regards research and innovation (R&I) programmes, the error rate has traditionally been above the 2% materiality level set by the Commission. Although the expected error rate of Horizon 2020 was set to be in the 2-5% range at the end of the Programme, DG Research and Innovation (DG RTD) discussed with the central services the methods to gradually reduce the error rate below 2%, one of them being the use of simplified costs options. In the year 2022, the Horizon 2020 cumulative detected Representative Error Rate was 2,82% and the Residual Error Rate (cumulative, all services) equalled 1,73%.

The rules for declaring personnel costs under Horizon 2020 remain complex despite simplification efforts. Their calculation is the main source of detected error in the cost claims of beneficiaries. Since the scope for further simplification in Horizon 2020 had been exhausted, provisions on personnel costs have been further simplified under Horizon Europe.

Having corporate and simpler rules on personnel costs is expected to reduce error risks for beneficiaries, while simplifying administration and auditing across directly-managed EU programmes. Key simplification measures of Horizon Europe are simplified cost options such as lump sum funding and unit costs.

Concerning this use of simplified cost options, DG RTD will continue to roll-out lump sum funding in Horizon Europe. This decision to increase the use of lump sums is based on the successful pilot under Horizon 2020, which was assessed positively in two independent studies by the Commission and the European Parliament. After a moderate start in 2021 and 2022, the first significant wave of lump sum calls has been launched with the Horizon Europe ‘main’ work programme 2023-2024.
Finally, the Erasmus+ and European Solidarity Corps programmes, as well as the Marie Skłodowska Curie Actions in Horizon Europe all implement simplified cost options, which make life easier for beneficiaries and reduce the risk of error.

16. On page 85 of the DG AGRI’s AAR, there is information about six 'very important' recommendations, issued by the Internal Audit Service between 2022 and January 2023 and related to three audits, which are to be addressed. There are four recommendations, which were due in April or June this year and some of them together with other DGs. What is the state of implementation of these four IAS recommendations?

**Commission’s answer:**

All four very important recommendations that were due in April and June 2023 have been implemented by DG AGRI. Here is a detailed status of the recommendations:

- The recommendation from the Internal Audit Service (IAS) thematic review on corrective capacity, addressed to DG AGRI, has been implemented in time and followed-up by the IAS who closed the recommendation.

- The recommendation from the IAS audit on DG AGRI’s management of the wine market has been implemented and will be followed-up by the IAS in line with the follow-up process within 6 months of its implementation.

- Two recommendations from the audit on EC actions against food fraud, have been implemented within the deadline and will be followed-up by the IAS in line with the follow-up process within 6 months of their implementation.

17. What are the lessons learned by DG AGRI from the last year ECA Annual report on performance and are there any steps undertaken to answer to the Court’s observations?

**Commission’s answer:**

In relation to the lessons learned, the steps undertaken to answer to the Court’s observations regard methods to track spending for horizontal policy priorities, such as climate and biodiversity.

As regards the climate mainstreaming, the Commission consistently aims to measure the Common Agricultural Policy’s contributions in the most reliable, scientific-based manner possible, while also taking into account that the methodology needs to be simple to implement, and undue administrative burdens should be avoided. The Commission agrees to modify the weightings referred to in Article 100(2) of Regulation (EU) 2021/2115, where such modification is warranted for more precise tracking of expenditure on environmental and climate-related objectives.
In order to assess the necessity to review the current methodology, a study has been included in DG AGRI studies and evaluation plan for 2023-2027, and is planned to be launched in 2024.

Regarding biodiversity mainstreaming, for the 2021–2027 multiannual financial framework, the Commission developed a new methodology based on the EU coefficients described in the communication on the performance framework of the EU budget under the 2021-2022 multiannual financial framework. The approach assigns three different coefficients (0%, 40%, or 100%) based on a list of possible activities. More details are available in the Biodiversity Financing and Tracking Report. The methodology fully integrates the ‘do no (significant) harm’ principle into its design.

18. In the DG AGRI AAR 2022, you report that one paying agency gave a qualified management declaration as regards legality and regularity of EAGF and EAFRD in the functioning of the Agency. The Member States Certifying Bodies gave however a qualified opinion on 4 agencies. Is this a discrepancy concerning the reliability of work between these paying agencies and certifying bodies? If so, is DG AGRI going to implement any measure to improve the control systems in these Member States? What does DG AGRI do with this information vis-a-vis these four Member States? And how does this relate to the reservations made?

**Commission’s answer:**

In the case of the paying agency for which the Management declaration was qualified by a reservation, this was included because of two DG AGRI conformity enquiries which are ongoing.

The issuing of a qualified audit opinion by the certification body on the Management Declaration of the paying agency does not necessarily mean that there is a “discrepancy concerning the reliability of work between the paying agencies and certification bodies”. In fact, these situations are analysed on a case-by-case basis during the financial clearance assessment. In this assessment, on one hand, the nature of the issues identified by the certification body in the Management Declaration is analysed, and, on the other hand, the position of the paying agency in relation to those issues and, where applicable, the remedial actions already put in place to address the deficiencies identified.

Specifically, for the four cases where a qualified opinion was issued by the certification body on the Management Declaration of the paying agency, two relate to incorrect reporting (error rates) and the other two relate to issues for which the paying agency did not accept the certification body’s findings. It should be underlined that these cases were thoroughly analysed by the Commission during the financial clearance assessment. Where the qualified audit opinion revealed the system weaknesses that were not addressed yet, the implementation of the necessary recommendations and the related financial consequences are followed up by the Commission under a conformity enquiry.
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As mentioned above, when a qualified audit opinion on the Management Declaration is linked to system deficiencies not mitigated by the Member State, the latter could lead to a corresponding reservation in the Annual Activity Report (AAR). However, it is to be noted that a reservation in the AAR is based on a conclusion of a complex assessment considering the paying agency’s control system, certification body’s audit and DG AGRI’s own audit results.

19. What new control measures compared to the previous CAP have there been put in place by MSs and COM to ensure that in the new CAP we will ensure sound financial management? In particular, how will the control systems ensure the fulfilment of conditions related to new CAP objectives, such as the eco-schemes?

**Commission’s answer:**
Under the new CAP legal framework, Member States have to put in place measures to ensure that eligibility conditions are respected by beneficiaries, to prevent and detect the conflict of interests, to avoid the double-funding as well as the circumvention of provisions of Union Law. In addition, Member States must establish measures to ensure the effective prevention against irregularities and fraud, as well as measures to ensure the recovery of undue payments and interests.

What proved to work properly in the previous years, has been carried over, such as the Integrated Administration Control System or the accredited Member States’ governance bodies.

The Member States have designed and implemented a control system to control the eligibility requirements related to eco-schemes in line with the provisions of the Union legislation and the CAP Strategic Plans. Those checks include administrative checks and on-the-spot checks. Moreover, eco schemes are to be covered by the mandatory Area Monitoring System which will cover 100% of the territory.

Lastly, it is important to recall that under the New Delivery Model, the Commission will still monitor what is done at the Member States level. In particular, the Commission will still perform checks on the respect of the accreditation criteria, on the performance reporting systems, on the work of certification bodies, and, where necessary, of paying agencies, to gain assurance on the proper functioning of the governance systems, and on the correct implementation of the CAP Strategic Plans.

The Commission also refers to its reply under question 1, 3 and 8.

**Questions concerning horizontal issues**

20. What are you doing to address the conditions on farms? There have been many reports over time of slave like conditions occurring on farms receiving EU funding, in particular on larger farms with agricultural products that are best harvested by hand rather than by machine
(for example, farms with certain types of fruits including lemons, oranges, strawberries etc.). What concrete measures have you taken to make sure that recipients of EU funds are not also violating human rights and keeping workers in slave like conditions on their farms? Have you included a ‘no-slavery’ clause as one of the eligibility criteria for receiving EU funds? Is DG AGRI concretely including looking for signs of slavery in their missions and monitoring and evaluation activities? What are the specific consequences if farms are found to hold workers in slave like conditions? What rules have you put in place concretely to protect workers on farms receiving EU funding, for example, required vacation days, required health care and benefits and other social protections?

**Commission’s answer:**

On 16 July 2020, the Commission issued new guidelines on the protection of seasonal workers in the EU. They provide guidance to national authorities, labour inspectorates and social partners to guarantee the rights, health and safety of seasonal workers, and to ensure that workers are aware of their rights.

Concerning the irregular migrant workers, Directive 2009/52/EC provides for minimum standards on sanctions and measures against employers of illegally staying third-country nationals. These measures include criminal sanctions against employers in cases where the illegally staying third-country national is subject to particularly exploitative working conditions, as well exclusion from, and recovery of, public benefits, aid or subsidies, including EU funding managed by Member States. The Directive also includes measures allowing for illegally staying third-country national workers to lodge complaints against abusive employers and file claims for unpaid wages. Member States are obliged to report annually on the inspections carried out for the implementation of the Directive and their results.

It is important to the Commission to better protect third-country seasonal workers. One cornerstone in this regard is the Seasonal Workers Directive. It was adopted in February 2014 with the aim of contributing to the effective management of migration flows for the specific category of seasonal workers and ensuring decent working and living conditions for them. This shall be achieved by setting out fair and transparent rules for admission and stay, by defining equal treatment and further rights of seasonal workers, measures to prevent abuses and infringements of labour rights and exploitation, such as monitoring and inspections, a mechanism to facilitate complaints, as well as sanctions against employers, while at the same time providing for incentives and safeguards to prevent overstaying and fostering circular migration. The Commission will report in second quarter (Q2) of 2024 about the implementation of the Directive by the Member States.

CAP beneficiaries, like other EU citizens, need to respect the general principles of Union law and the Charter of the Fundamental Rights of the European Union. Article 9 of the CAP Strategic Plan Regulation also recalls the obligation to respect the Charter.

The 2023-2027 CAP includes, for the first time, a social dimension for the protection of agricultural workers. The conditionality mechanism links full receipt of CAP payments to the
respect of the Directive on transparent and predictable working conditions (Directive 2019/1152) and occupational safety and health rules (Directive 89/391/EEC and Directive 2009/104/EC). Under this mechanism, CAP payments may be reduced if they are found to breach elements of this EU social legislation.

Member States are primarily responsible for carrying out the controls and sanctions under the social legislation, as well as ensuring possible consequences on CAP payments under the mechanism of social conditionality. The possibility of the inclusion within the scope of social conditionality of Regulation 492/2011 on freedom of movement for workers within the Union (particularly relevant for EU seasonal workers) will be assessed by 2025.

With the Farm Advisory Services, the CAP also requires national authorities to provide advice to farmers on their obligations as employers, as well as on occupational safety and health.

21. What is the state of play on the methodology for calculating the contribution of the CAP to the EU’s climate objectives?

**Commission’s answer:**

The climate tracking in the previous MFF was relying on a less advanced methodology than the one we are using today. This might have led to alleged overreporting due to overstating the climate coefficients for certain types of investment, something that the ECA also noted in their report. Specifically, regarding the CAP, it is important to note that the green architecture is different from the previous MFF period, thanks to the inclusion of the new Good Agricultural and Environmental Conditions underpinning the climate coefficients, as well as the new eco-schemes.

For the CAP 2023-2027, the methodology for climate tracking follows the requirements of Regulation 2021/2115, Art. 100:

(a) 40% for the expenditure under the basic income support, the complementary redistributive income support for sustainability and the complementary income support for young farmers;

(b) 100% for expenditure under the eco-schemes;

(c) 100% for expenditure for the EAFRD interventions addressing environmental and climate-related specific objectives other than those referred to in point (d);

(d) 40% for expenditure for natural or other area-specific constraints.

We will nevertheless review and draw lessons from this new system by launching a study in 2024 to support the work towards defining a new approach for climate tracking under the CAP. This will be done in line with the legal requirement in the CAP Strategic Plans Regulation that provides for the possibility, if warranted, to amend the existing climate tracking methodology by the means of a delegated act.
22. What have been the concrete measures to help young farmers in 2022, including eventually the NGEU package?

**Commission’s answer:**

Generational renewal is a high priority for the CAP.

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, 169,342 young farmers – or 97% 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 has been made more flexible. It can finance projects with higher amounts and types of cost for which there are restrictions in the grants rules.

At the end of 2021, about 170,000 young farmers benefited from the support for business startup aid for young farmers (Art. 19 of Regulation (EU) No 1305/2013 (under EAFRD)), which represents a significant progress in 2020 towards the achievement of the targets for the 2014-2020 programming period (177,000 beneficiaries).

Additionally, about 366,000 farmers newly set up for the first time have benefited from the Young Farmer Payment (YFP) under the direct payment (Regulation (EU) No 1307/2013 (EAGF) in claim year 2021 (financial year 2022). In other terms, 6.3% of the total number of farmers applying for the basic payment scheme benefited from the young farmer payment in the EU in 2021 (financial year 2022). To be noted that the unit amount (€/ha) was limited by a calculation method and could not be granted for more than 90 ha. In addition, the total expenditure could not go above the 2% of the direct payments annual national ceiling.

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 to explain the interplay between Union and national actions (e.g. taxation, inheritance law, access to land and to finance). The new policy includes earmarking of an amount corresponding to at least 3% of the Member States’ envelope for direct payments to support generational renewal (actual expenditure forecasted for the entire period is 18% higher than the ringfenced amount). The unit amount and the maximum number of hectares for the Pillar I intervention is no longer limited, and the
decision is exclusively taken by the Member States, based on the assessed needs. Support for young farmers will be granted, on a voluntary basis, as enhanced income support, start-up aid for young and new farmers, investment support at higher rate as well as, in addition, intergenerational knowledge exchange and advice. The planned target is to support 377,000 new Young Farmers over the period 2023-2027.

23. There is almost no concrete information on DG AGRI’s 2022 AAR regarding the implementation of the European Green Deal. What is the state of play? Will the target of 35% spending for climate action in DG AGRI’s domain be met? How does the CAP contribute to at least 55% less greenhouse gas emissions by 2030 (compared to 1990 levels)? Are 3 billion additional trees being planted by 2023?

**Commission’s answer:**
As in previous years, the 2022 AAR reports on the achievements in relation to no less than 6 Green Deal related specific objectives of the Common Agricultural Policy. However, given the unprecedented magnitude and importance for the agricultural sector of the fall-out of Russia’s war of aggression against Ukraine, and the ensuing energy and supply chain crises in 2022, the AAR reported also on the impact of that aggression and the measures taken in that context.

For 2021-2027, 38% of the CAP budget is expected to contribute to climate action. When approving the CAP Strategic Plans of Member States for the programming period 2023-2027, the Commission ensured that the minimum required share of the national envelope is dedicated to green architecture (minimum 25% for eco-schemes, 35% for rural development and 15% for fruit and vegetable sector).

As regards the 3 billion trees pledge by 2030, the CAP contributes with several tools, including agro-forestry, afforestation of agricultural land and creation of landscape features.

More generally, the continuous contribution of CAP to increasing the sustainability of farming can be tracked over the years. The share of agricultural land under management commitments beneficial for the soil management increased from 11.9% in 2018 to 13% in 2020. Also, the share of agricultural land under management commitments beneficial for water management increased from 12.1% in 2018 to 13% in 2020, while the share of agricultural land under management commitments for supporting biodiversity conservation or restoration increased from 14.9% in 2018 to 17% in 2020. The share of agricultural land under commitments specifically targeting reduction of Greenhouse gas and/or ammonia emissions remained stable at about 2% between 2018 and 2020.

Greenhouse gas emissions (GHG) from agriculture have declined substantially (21.2%) between 1990 and 2020. Since 2010, however, GHG, emission levels have increased by 0.57%. Between 2017 and 2018, there was a decrease in emissions from cropland and grassland and an increase from managed agricultural soils. EU agriculture is becoming more environmentally friendly. The share of the Union’s agricultural area covered by practices beneficial for the environment
increased from 75% in 2015 to 77% in 2019, while the share under organic farming continued its increase from 8.0% in 2018 to 8.5% in 2019.

24. The EU mobilised the crisis reserve for the first time, creating a support package for the EU farmers most affected by the Ukraine crisis, with a total value of 500 million euro. How much of this money has already been disbursed, and how is it disbursed? Is it for example disbursed under the IACS?

**Commission’s answer:**
The crisis reserve was activated for the very first and last time of its existence (2014-2022) in March 2022, when an exceptional adjustment aid to producers affected by the consequences of the war in Ukraine was adopted. The support package amounted to EUR 500 million, out of which EUR 350 million were financed from the 2022 crisis reserve (the remaining EUR 150 million came from other availabilities under the European Agricultural Guarantee Fund). Furthermore, Member States were allowed to grant additional national aid up to a maximum of 200% of their EU allocation.

The execution rate of the EU support was very high: Member states paid above EUR 492 million to beneficiaries. This figure also represents the final expenditure as the eligibility date for payment was 30 September 2022, thus no further payments can be made. The exceptional adjustment aid was financed under the European Agricultural Guarantee Fund. Being an exceptional measure under the Common Market Organisations, the measure and consequently the payment is not covered by the IACS. Nevertheless, Member States were given flexibility in deciding on the sectors they considered most hit by the market disturbance and also the types of aids schemes. Therefore, in many cases, the payments were linked to IACS (i.e., payments were based on area or number of animals).

25. What has been DG AGRI's role in the implementation of the RRF, particularly in view of the areas of overlap (e.g. providing broadband internet in rural areas, innovations in ‘green technologies’ and support for biodiversity)? Could you elaborate if you indeed have no involvement in the implementation of the RRF? How is double funding of activities by CAP measures and RRF measures avoided?

**Commission’s answer:**
DG AGRI is involved in the implementation of the Recovery and Resilience Facility (RRF) in its areas of expertise. The Commission has conducted inter-service consultations to ensure that the notified national recovery and resilience plans (RRPs) work in synergy with other EU funding sources, including EAFRD, and that the risk of double funding is minimized.
Furthermore, DG AGRI is consulted on the assessment of every RRF payment concerning agricultural and/or rural grants.

Double funding is prevented by CAP and RRF rules.

From the CAP perspective, specific requirements for the Member States have been put in place to ensure that expenditure financed under the EAFRD does not benefit from any other funding under the Union’s budget, including RRF, for the same eligible costs.

Furthermore, Member States must ensure that controls prevent double funding of EAFRD with other Union or national schemes and with the previous programming periods.

In the programming period 2014-2020, Member States were required to define in their Rural Development Programmes the demarcation and complementarities between the EAFRD and other Union funds.

On what concerns specifically the 2023-2027 CAP, the CAP 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. The description of strategy and interventions in the CAP Strategic Plan contains, to varying degree of detail, information on cooperation and demarcation between different EU and national funding sources.

According to the RRF Regulation, Member States are primarily responsible for ensuring that no double funding occurs. In the RRP design phase, Member States are required to include sufficient information and evidence to ensure that the estimated total costs of each reform and investment are not covered or planned to be covered by other EU funds, and to provide details on procedures and arrangements in place at national and regional level to avoid double funding. In case a Member State intends to use other EU funds, this shall be reflected and clearly delineated in the estimated costing of the measure. During the implementation of the plan, Member States must report on other EU funding received related to RRF measures in the Commission’s RRF IT-tool FENIX. The Member States must avoid double funding, and must take corrective action where double funding is discovered (i.e. recover the related amounts from the final recipient). In the management declaration accompanying each payment request, the Member State shall confirm the absence of double funding and the Commission carries out audits of national control systems to ensure these are adequate and functional, among other elements, to avoid double funding. In addition, during its ex-post audits on milestones and targets, the Commission verifies the absence of double funding for the selected sample, at three levels: coordinating body, implementing body and final recipient (project). Member States must also collect and report data on any investment or reform supported under their RRP which has or is receiving funding from any other Union programme.

26. The CAP Strategic Plans run from 1 January 2023. Would you say that the rather short preparation period of these plans after the approval of the legislation will allow the CAP objectives to be reached?
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Commission’s answer:

It should be noted that even though the CAP regulations were only officially adopted in December 2021, the work on the national Strategic Plans in most Member States started already in the last quarter of 2020, after the Council reached its conclusions on the CAP regulation package and published its recommendations.

From early 2021, the Commission also started the so-called structured dialogue with the Member States, which lasted until the approval of the CAP Plans. The structured dialogue was mainly to help Member States with the preparation of their Plans and to guide them through the New Delivery Model with an aim of getting ambitious plans that are fit for purpose and can deliver on the multiple objectives of the CAP.

In November 2023, the Commission will present to the Council and to the European Parliament a report on the joint effort of all CAP Plans in addressing the 10 sustainability objectives of the CAP.

Also, the Commission will be having yearly discussions with Member States in the Annual Performance Review to monitor progress towards policy objectives set.

27. To what extent the new proposals of legislation, such as the Nature Restoration Law are compatible with the objectives of the CAP and its financing?

Commission’s answer:

Some of the biggest long-term threats to the EU food security are climate change and biodiversity loss. For instance, the consequences of severe droughts and unprecedented floods are already visible. Also, a decline in the population of wild pollinators can be observed, whereas several important food crops rely on pollination. At the same time, the expected transition towards a more sustainable agriculture is a comprehensive task that calls for adequate support with a full range of policy tools, also beyond the CAP.

The task ahead of us is to maintain the Union’s agricultural food production potential to always ensure food security and affordability, while ensuring the medium- and long-term sustainability of food supply, by continuing the transition to more sustainable food production as laid out in the Farm to Fork and Biodiversity Strategies.

Some of the actions crucial to ensure food security in the medium and long terms are for instance: protecting and restoring some key ecosystems, re-establishing the soil health and fertility, and reversing the pollinator loss. This must go hand in hand with securing a strong and stable livelihood for our farmers and rural communities and maintaining a strong and well financed Common Agricultural Policy.

The Commission expects that the proposed Nature Restoration Law will contribute to increasing the resilience of EU agriculture. The overall objective of the proposal for a new Nature Restoration Law is to contribute to the recovery of biodiverse and resilient nature across the
Union’s land and sea areas, through the restoration of ecosystems, thereby also contributing to the Union’s objectives on climate change mitigation and adaptation and to meeting the Union’s international commitments. The Nature Restoration Law proposal is compatible with CAP objectives and with its strategic objective 6 to “contribute to halting and reversing biodiversity loss, enhance ecosystem services and preserve habitats and landscapes”. Restored, biodiverse ecosystems support soil fertility, nutrient cycling, climate and water regulation, pollination, and natural pest control. These ecosystem services have a positive impact on food productivity in the long-term and support the resilience of agriculture in a changing climate.

Once adopted, the Commission is also aware that the obligations on agricultural and forestry ecosystems will all entail changes to some farming practices and certain forest management practices. However, the current actions included under the CAP Strategic Plans for biodiversity purposes, such as conditionality, eco-schemes or agro-environment-climate commitments address to a large extent the objectives of the nature restoration law and can be considered in the related upcoming plans. The Nature Restoration Law proposal sets no obligation for Member States to re-programme any funding under the CAP under MFF 2021-2027. The implementation of the national restoration plans will not start before 2026.

Finally, Member States will estimate financing needs for implementing restoration measures in their national restoration plans and will mobilise funding from public and private sources to address those needs. EU funds providing funding for nature restoration under the 2021-2027 MFF include the CAP and other funds (such as Cohesion Fund, European Regional Development Fund, European Maritime, Fisheries and Aquaculture Fund, LIFE, RRF, InvestEU).

28. Farmers in Poland are receiving a disproportionately high premium per hectare of farmland. This is incompatible with the rules applicable to EU funding regarding hectare premiums. How can DG AGRI justify this? Please list exactly how much polish farms are receiving per hectare.

**Commission’s answer:**

As of 1 January 2023, the Common Agricultural Policy provides support to farmers via national CAP Strategic Plans that are prepared by each Member State and contain details of the support provided and designed based on the needs analysis. The support in the CAP Strategic Plans for a given Member State depends on the budget set for that Member State by the co-legislators and the specific interventions in a particular CAP Strategic Plan to address the identified needs.

There are several types of interventions that are paid per hectare. There is the basic income support that is available for all farmers and there are specific payments for farmers in mountain areas and areas with natural or other specific constraints, there are payments for eco-schemes, etc. These payments aim to improve the farm income, prevent land abandonment, contribute to the climate change mitigation, etc.
The only payment that is available to all farmers is the Basic Income Support for Sustainability (BISS). The planned payment for BISS in Poland is up to 120 €/ha, below the EU average of 134 €/ha.

In terms of national support, each Member State can choose to establish specific State aid measures, in addition to those in the CAP support, in response to specific requirements. These State aid measures must be in line to applicable State aid rules. For instance, the Agricultural Block Exemption Regulation, which does not require an ex-ante notification to the Commission, or the Agricultural State aid Guidelines requiring ex-ante notification and approval from the Commission.

To alleviate the impact of the war in Ukraine, which includes the imports of grains and agricultural products from Ukraine, Member States had the opportunity to design measures under the Temporary Crisis and Transition Framework to support their farmers and other businesses. The total approved budgets for schemes dedicated to agriculture amount to over EUR 9 billion for 23 Member States. Poland, as one of the frontline Member States, allocated a budget of EUR 3.5 billion for primary agricultural production. It is important to note that these are approved budgets, and it cannot be assumed that this money has been disbursed or utilised. They are not necessarily paid on a per hectare basis.