Amendment 225
Ulrike Müller on behalf of the Renew Group
Tilly Metz on behalf of the Greens/EFA Group
Chris MacManus

Report Ulrike Müller
Common agricultural policy: financing, management and monitoring

Proposal for a regulation
Article 47

Text proposed by the Commission

Article 47
Checks by the Commission
1. Without prejudice to the checks carried out by Member States under national law, regulations and administrative provisions or Article 287 of the Treaty or to any check organised under Article 322 of the Treaty or based on Council Regulation (Euratom, EC) No 2185/96, the Commission may organise checks in Member States with a view to verifying in particular:

(a) compliance of administrative practices with Union rules;

(b) whether the expenditure falling within the scope of Articles 5(2) and 6 and corresponding to the interventions referred to in Regulation (EU) …/[CAP Strategic Plan Regulation] have a corresponding output as reported in the annual performance report;

(c) whether the work of the certification body is carried out in accordance with Article 11 and for the purposes of Section 2 of this Chapter;

(d) whether a paying agency complies with the accreditation criteria laid down in

Amendment

Article 47
Checks by the Commission
1. Without prejudice to the checks carried out by Member States under national law, regulations and administrative provisions or Article 287 TFEU or to any check organised under Article 322 TFEU or based on Council Regulation (Euratom, EC) No 2185/96, the Commission may organise checks in Member States with a view to verifying in particular:

(a) compliance of administrative practices with Union rules;

(b) whether the expenditure falling within the scope of Articles 5(2) and Article 6 and corresponding to the interventions referred to in Regulation (EU) …/[CAP Strategic Plan Regulation] have a corresponding output as reported in the annual clearance report;

(c) whether the work of the certification body is carried out in accordance with Article 11 and for the purposes of Section 2 of this Chapter;

(d) whether a paying agency complies with the accreditation criteria laid down in
Article 8(2) and whether the Member State correctly applies Article 8(5).

- whether the action plans established in accordance with Article 39 or Article 40 are correctly implemented.

In order to ensure the protection of the financial interests of the Union in accordance with Article 57 of this Regulation, the Commission shall extend its checks referred to in the first subparagraph of this paragraph with respect to all the interventions laid down in Regulation (EU).../... [CAP Strategic Plans]. In the event that serious deficiencies in the Member State's management and control systems are detected or when the information obtained by the Commission in accordance with Articles 8(3) and 11 reveals significant irregularity rates in the result of the Member State’s checks pursuant to Article 57 (1) of this regulation. Such Extended checks shall be carried out by the Commission for the purpose of confirming the terms on which the operations financed by the Funds were undertaken and checked to ensure compliance with applicable Union law and for as long as the serious deficiencies in the management and control systems or the significant irregularity rates persist.

Persons authorised by the Commission to carry out checks on its behalf, or Commission agents acting within the scope of the powers conferred on them, shall have access to the books and all other documents, including documents and metadata drawn up or received and recorded on an electronic medium, relating to expenditure financed by the EAGF or the EAFRD.

The powers to carry out checks shall not affect the application of national provisions which reserve certain acts for agents specifically designated by national law. Without prejudice to the specific

Persons authorised by the Commission to carry out checks referred to in this paragraph on its behalf, or Commission agents acting within the scope of the powers conferred on them, shall have access to the books and all other documents, including documents and metadata drawn up or received and recorded on an electronic medium, relating to expenditure financed by the EAGF or the EAFRD.

The powers to carry out checks referred to in this paragraph shall not affect the application of national provisions which reserve certain acts for agents specifically designated by national law. Without
provisions of Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96, persons authorised by the Commission to act on its behalf shall not take part, inter alia, in home visits or the formal questioning of persons on the basis of law of the Member State concerned. However, they shall have access to information thus obtained.

2. The Commission shall give sufficient prior notice of a check to the Member State concerned or to the Member State within whose territory the check is to take place, taking into account the administrative impact on paying agencies when organising checks. Agents from the Member State concerned may take part in such checks.

At the request of the Commission and with the agreement of the Member State, additional checks or inquiries into the operations covered by this Regulation shall be undertaken by the competent bodies of that Member State. Commission agents or persons authorised by the Commission to act on its behalf may take part in such checks.

In order to improve checks, the Commission may, with the agreement of the Member States concerned, request the assistance of the authorities of those Member States for certain checks or inquiries.

(prejudice to the specific provisions of Regulation (EU, Euratom) No 883/2013 and Regulation(Euratom, EC) No 2185/96, persons authorised by the Commission to act on its behalf shall not take part, inter alia, in home visits or the formal questioning of persons on the basis of law of the Member State concerned. However, they shall have access to information thus obtained.

2. The Commission shall give sufficient prior notice of a check to the Member State concerned or to the Member State within whose territory the check is to take place, taking into account the administrative impact on paying agencies when organising checks. Agents from the Member State concerned may take part in such checks.

At the request of the Commission and with the agreement of the Member State, additional checks or inquiries into the operations covered by this Regulation shall be undertaken by the competent bodies of that Member State. Commission agents or persons authorised by the Commission to act on its behalf may take part in such checks.

In order to improve checks, the Commission may, with the agreement of the Member States concerned, request the assistance of the authorities of those Member States for certain checks or inquiries.

Or. en
Amendment 226
Ulrike Müller
on behalf of the Renew Group
Anne Sander
on behalf of the EPP Group
Pina Picierno
on behalf of the S&D Group
Tilly Metz
on behalf of the Greens/EFA Group
Chris MacManus

Report
Ulrike Müller
Common agricultural policy: financing, management and monitoring

Proposal for a regulation
Article 57

Text proposed by the Commission

Article 57
Protection of the financial interests of the Union
1. Member States shall, within the framework of the CAP, adopt all legislative, regulatory and administrative provisions and take any other measures necessary to ensure effective protection of the financial interests of the Union. Those provisions and measures shall relate in particular to:

(a) checking the legality and regularity of operations financed by the Funds;
(b) ensuring effective prevention against fraud, especially in areas with a higher level of risk, and which will act as a deterrent, having regard to the costs and benefits and the proportionality of the

Amendment

Article 57
Protection of the financial interests of the Union
1. Member States shall, within the framework of the CAP, respect the applicable governance systems, adopt all legislative, regulatory and administrative provisions and take any other measures necessary to ensure effective protection of the financial interests of the Union including application of the eligibility of expenditure criteria laid down in Article 35. Those provisions and measures shall relate in particular to:

(a) checking the legality and regularity of operations financed by the Funds, including at the level of beneficiaries;
(b) ensuring effective prevention against fraud, especially in areas with a higher level of risk, and which will act as a deterrent, having regard to the costs and benefits and the proportionality of the
measures;
(c) preventing, detecting and correcting irregularities and fraud;
(d) imposing penalties which are effective, dissuasive and proportionate in accordance with Union law, or failing this, national law, and bring legal proceedings to that effect, as necessary;
(e) recovering undue payments plus interest, and bring legal proceedings to that effect as necessary.

2. Member States shall set up efficient management and control systems in order to ensure compliance with the Union legislation governing Union interventions.

3. Member States shall take appropriate precautions ensuring the the penalties applied as referred to in point (d) of paragraph 1 are proportionate and graduated according to the severity, extent, duration and reoccurrence of the non-compliance found.

The arrangements set out by Member States shall ensure, in particular, that no penalties shall be imposed:
(a) where the non-compliance is due to force majeure;
(b) where the non-compliance is due to an error of the competent authority or another authority, and where the error could not reasonably have been detected by the person concerned by the administrative penalty;
(c) where the person concerned can demonstrate to the satisfaction of the competent authority that he or she is not at fault for the non-compliance with the obligations referred to in paragraph 1 or if the competent authority is otherwise satisfied that the person concerned is not at fault.

Where the non-compliance with the conditions for the granting of the aid is due to force majeure, the beneficiary shall
retain the right to receive aid.

4. Member States shall introduce arrangements for ensuring the effective examination of complaints concerning the Funds and shall, upon request by the Commission, examine complaints submitted to the Commission falling within the scope of their CAP Strategic Plan. Member States shall inform the Commission of the results of those examinations.

Where deficiencies regarding the examination and treatment of complaints have been detected in a Member State, the Commission shall set up a complaints mechanism to which beneficiaries confronted with unfair treatment, or treatment which puts them at a disadvantage, concerning the commitment or disbursement of public funds under direct or shared management including public tender decisions can lodge direct complaints to the Commission. The Commission shall ensure that adequate protection for natural or legal persons following the lodging of a complaint is guaranteed.

5. Member States shall inform the Commission of the provisions adopted and measures taken under paragraphs 1 and 2.

6. The Commission may adopt implementing acts, laying down rules necessary for the uniform application of this Article relating to the following:

(a) the procedures, deadlines, exchange of information in relation to the obligations as set out in paragraphs 1 and 2;

(b) the notification and communication to be made by the Member States to the Commission in relation to the obligations set out in paragraphs 3 and 4.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).
United in diversity
Amendment 227
Ulrike Müller
on behalf of the Renew Group
Anne Sander
on behalf of the EPP Group
Pina Picierno
on behalf of the S&D Group
Tilly Metz
on behalf of the Greens/EFA Group
Krzysztof Jurgiel
on behalf of the ECR Group
Chris MacManus
on behalf of the GUE/NGL Group

Report
Ulrike Müller
Common agricultural policy: financing, management and monitoring

Proposal for a regulation
Article 69 – paragraph 1

Text proposed by the Commission
The system for recording the identity of each beneficiary of the interventions and measures as referred to in Article 63(2) shall guarantee that all applications submitted by the same beneficiary can be identified as such.

Amendment
The system for recording the identity of each beneficiary of the interventions and measures as referred to in Article 63(2) shall guarantee that all applications submitted by the same beneficiary can be identified as such. It shall also ensure that, where beneficiaries are part of a group within the meaning of point 11 of Article 2(1) of Directive 2013/34/EU, that group can be identified.

Or. en
Amendment 228  
Ulrike Müller  
on behalf of  the Renew Group  
Tilly Metz  
on behalf of  the Greens/EFA Group  
Krzysztof Jurgiel  
on behalf of  the ECR Group  
Chris MacManus

Report  
Ulrike Müller  
Common agricultural policy: financing, management and monitoring  

Proposal for a regulation  
Article 85

Text proposed by the Commission  
Article 85  
System of administrative penalties for conditionality  
1. Member States shall set up a system providing for the application of administrative penalties to beneficiaries referred to in Article 11 of Regulation (EU) …/… [CAP Strategic Plan Regulation] who do not comply, at any time in the calendar year concerned, with the rules on conditionality as laid down in Section 2 of Chapter 1 of Title III of that Regulation ("penalty system").

Under that system, the administrative penalties referred to in the first subparagraph shall only apply where the non-compliance is the result of an act or omission directly attributable to the beneficiary concerned; and where one or both of the following conditions are met:

(a) the non-compliance is related to the agricultural activity of the beneficiary;  
(b) the area of the holding of the beneficiary is concerned.

Amendment  
Article 85  
System of administrative penalties for conditionality  
1. Member States shall set up a system providing for the application of administrative penalties to beneficiaries referred to in Article 11 of Regulation (EU) …/… [CAP Strategic Plan Regulation] who do not comply, at any time in the calendar year concerned, with the rules on conditionality as laid down in Section 2 of Chapter 1 of Title III of that Regulation ("penalty system").

Under that system, the administrative penalties referred to in the first subparagraph shall only apply where the non-compliance is the result of an act or omission directly attributable to the beneficiary concerned; and where one or both of the following conditions are met:

(a) the non-compliance is related to the agricultural activity of the beneficiary;  
(b) the area of the holding of the beneficiary is concerned.
With regard to forest areas, however, the administrative penalty referred to in the first subparagraph shall not apply where no support is claimed for the area concerned in accordance with Articles 65 and 66 of Regulation (EU) …/[CAP Strategic Plan Regulation].

2. In their penalty systems referred to in paragraph 1, Member States:
   (a) shall include rules on the application of administrative penalties in cases where the land is transferred during the calendar year concerned or the years concerned. These rules shall be based on a fair and equitable attribution of the liability for non-compliances among transferors and transferees;
   (b) may decide, notwithstanding paragraph 1, not to apply a penalty per beneficiary and per calendar year when the amount of the penalty is EUR 100 or less. The finding and the obligation to take remedial action shall be notified to the beneficiary;
   (c) shall provide that no administrative penalty be imposed where the non-compliance is due to force majeure.

3. The application of an administrative penalty shall not affect the

With regard to forest areas, however, the administrative penalty referred to in the first subparagraph shall not apply where no support is claimed for the area concerned in accordance with Articles 65 and 66 of Regulation (EU) …/[CAP Strategic Plan Regulation].

2. In their penalty systems referred to in paragraph 1, Member States:
   (a) shall include rules on the application of administrative penalties in cases where the agricultural land, or an agricultural holding or part thereof is transferred during the calendar year concerned or the years concerned. These rules shall be based on a fair and equitable attribution of the liability for non-compliances among transferors and transferees;
   (b) may decide, notwithstanding paragraph 1, not to apply a penalty per beneficiary and per calendar year when the amount of the penalty is EUR 100 or less. The finding and the obligation to take remedial action shall be notified to the beneficiary;
   (c) shall provide that no administrative penalty be imposed if:

   (i) the non-compliance is due to force majeure;
   (ii) the non-compliance is due to an order from a public authority; or
   (iii) the non-compliance is due to an error of the competent authority or another authority, and where the error could not reasonably have been detected by the beneficiary subject to the administrative penalty.

3. The application of an administrative penalty shall not affect the
legality and regularity of the expenditure to which it applies.
Amendment 229
Ulrike Müller
on behalf of the Renew Group
Tilly Metz
on behalf of the Greens/EFA Group
Pina Picerno
on behalf of the S&D Group
Anne Sander
on behalf of the EPP Group
Krzysztof Jurgiel
on behalf of the ECR Group
Chris MacManus

Report
Ulrike Müller
Common agricultural policy: financing, management and monitoring

Proposal for a regulation
Article 86

Text proposed by the Commission

Article 86
Calculation of the penalty

1. The administrative penalties provided for in Section 2 of Chapter 1 of Title III of Regulation (EU) .../[CAP Strategic Plan Regulation] shall be applied by means of reduction from or exclusion of the total amount of the payments listed in that Section of that Regulation granted or to be granted to the beneficiary concerned in respect of aid applications he has submitted or will submit in the course of the calendar year of the finding.

For the calculation of those reductions and exclusions, account shall be taken of the severity, extent, permanence, reoccurrence or intentionality of the non-compliance determined. The penalties imposed shall be dissuasive and proportionate, and compliant with the criteria set out in

Amendment

Article 86
Calculation of the penalty

1. The administrative penalties shall be applied by means of reduction or exclusion of the total amount of the payments listed in Article 84(1) granted or to be granted to the beneficiary concerned in respect of aid applications that beneficiary has submitted or will submit in the course of the calendar year of the finding.

For the calculation of those reductions and exclusions, account shall be taken of the severity, extent, permanence, reoccurrence or intentionality of the non-compliance determined. The penalties imposed shall be dissuasive and proportionate, and compliant with the criteria set out in
paragraphs 2 and 3 of this Article.

2. In the case of non-compliance due to negligence, the percentage of reduction shall be as a general rule 3% of the total amount of the payments referred to in paragraph 1 of this Article.

Member States may set up an early warning system that applies to individual cases of non-compliance occurring for the first time and which, given their minor severity, extent and permanence, shall not lead to a reduction or exclusion. Where a subsequent check within three consecutive calendar years establishes that the non-compliance has not been remedied, the reduction pursuant to the first subparagraph shall be applied retroactively.

However, cases of non-compliance which constitute a direct risk to public or animal health shall always lead to a reduction or exclusion.

Member States may provide mandatory training under the farm advisory system provided for in Section 3 of Chapter 1 of Title III of Regulation (EU) …/[CAP Strategic Plan Regulation] to the beneficiaries who have received an early warning.

3. In case of reoccurrence, the percentage reduction shall be higher than the one to be applied in case of non-compliance due to negligence and sanctioned for the first time.

In the case of subsequent reoccurrences of non-compliance, and if no justified reason is provided by the beneficiary

However, cases of non-compliance which constitute a direct risk to public or animal health shall always lead to a reduction or exclusion.

Member States shall provide for specific training on conditionality under the farm advisory system provided for in Section 3 of Chapter 1 of Title III of Regulation (EU) …/[CAP Strategic Plan Regulation] to the beneficiaries who have received an early warning, attendance of which may be made mandatory.
concerned, that beneficiary shall be considered to have acted intentionally within the meaning of Paragraph 4.

4. In case of intentional non-compliance, the percentage shall be higher than the one applied in case of reoccurrence pursuant to Paragraph 3 and may go as far as total exclusion from payments and may apply for one or more calendar years.

5. In order to ensure a level playing field between Member States and the effectiveness and dissuasive effect of the penalty system, the Commission shall be empowered to adopt delegated acts in accordance with Article 100a supplementing this Regulation with further rules on the application and calculation of penalties.

Or. en
Amendment 230
Ulrike Müller
on behalf of the Renew Group
Anne Sander
on behalf of the EPP Group
Pina Picierno
on behalf of the S&D Group
Tilly Metz
on behalf of the Greens/EFA Group
Krzysztof Jurgiel
on behalf of the ECR Group
Chris MacManus
on behalf of the GUE/NGL Group

Report
Ulrike Müller
Common agricultural policy: financing, management and monitoring

Proposal for a regulation
Article 96 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure annual ex-post publication of the beneficiaries of the Funds in accordance with [Article 44(3)-(5) of Regulation (EU) ...(CPR Regulation] and paragraphs 2, 3 and 4 of this Article.

Amendment

1. Member States shall ensure annual ex-post publication of the beneficiaries of the Funds in accordance with [Article 44(3) to (5) of Regulation (EU) ...(CPR Regulation] and paragraphs 2, 3 and 4 of this Article. Where beneficiaries are part of a group within the meaning of point 11 of Article 2(1) of Directive 2013/34/EU, the published information shall allow for the identification of that group.

Or. en