

Basic information	
2022/2521(DEA) DEA - Delegated acts procedure Calculation methods of public intervention expenditure Supplementing 2011/0288(COD) Subject 3.10 Agricultural policy and economies	Procedure completed - delegated act enters into force

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	AGRI Agriculture and Rural Development		

Key events			
Date	Event	Reference	Summary
21/01/2022	Non-legislative basic document published	C(2022)00298	
21/01/2022	Initial period for examining delegated act 2.0 month(s)		
16/02/2022	Committee referral announced in Parliament		
29/03/2022	Delegated act not objected by Parliament		

Technical information	
Procedure reference	2022/2521(DEA)
Procedure type	DEA - Delegated acts procedure
Procedure subtype	Examination of delegated act Supplementing 2011/0288(COD)
Stage reached in procedure	Procedure completed - delegated act enters into force
Committee dossier	AGRI/9/08223

Documentation gateway			
European Commission			
Document type	Reference	Date	Summary
Non-legislative basic document	C(2022)00298	21/01/2022	

Calculation methods of public intervention expenditure

2022/2521(DEA) - 22/10/2012

The Commission briefed the Council on an amendment to a proposal for a Regulation on the financing, management and monitoring of the common agricultural policy (CAP) or "Horizontal Regulation" in CAP reform package.

With regard to the **amendments on the publication of the names of beneficiaries**, some Member States pointed out that the *de minimis* threshold was not necessary for the sake of transparency; in their view, all beneficiaries of CAP payments should be listed.

Some others expressed concerns about the details given on the beneficiaries, fearing that this process might interfere with data on private life. They questioned whether the proposal complied with the Court of Justice ruling. An opinion of the Council Legal Service was requested by some delegations.

In addition to provisions concerning cross-compliance for Croatia with a view to its accession, the new proposal on the horizontal regulation includes **other amendments regarding new rules on the publication of information on all beneficiaries of the EU agricultural funds**. This takes account of the objections by the Court of Justice to the former rules to the extent that they were applicable to natural persons. The new rules will differ from the ones declared invalid by the Court in the said Joined Cases in so far as they:

- are based on a revised detailed justification, centred around the need for public control of the use of European agricultural funds in order to protect the Union's financial interests;
- require more detailed information to be given on the nature and description of the measures for which the funds are disbursed;
- include a *de minimis* threshold below which the name of the beneficiary will not be published.

The Council is expected to adopt a partial general approach on the single CMO and on the other CAP reform proposals **by the end of the year** under the Cypriot Presidency.

Calculation methods of public intervention expenditure

2022/2521(DEA) - 25/02/2013

Ministers held two policy debates within the framework of the common agricultural policy (CAP) reform. The discussions focused on:

- the [proposal for a Regulation establishing rules for direct payments to farmers \(Direct Payments Regulation\)](#);
- the **proposal for a Regulation** on the financing, management and monitoring of the CAP (Horizontal Regulation).

The **specific issues examined** concerned the basic payment scheme and transparency on CAP payment beneficiaries.

Transparency on CAP beneficiaries: it should be recalled that in its judgment of November 2010, the Court of Justice declared invalid, taking into account the right to privacy and to the protection of personal data enshrined in the EU's Charter for Fundamental Rights, certain aspects of EU legislation requiring the publication of information on the beneficiaries of CAP funds.

On 25 September 2012, the Commission presented an **amendment to its proposal in regard to the publication of data and payments received by beneficiaries** (natural and legal persons), the objective of which was to take into account the Court's ruling. This proposal introduced a new objective in respect of the publication requirement – the need for public control of the use of European agricultural funds.

At the Council session of 22 October 2012, while the majority of Member States supported the Commission's amended proposal, some delegations called on the Council's Legal Service to prepare an opinion on this proposal. In these circumstances, the Presidency drew up another document clarifying the Council's position on this issue.

With regard to the amendments on the publication of beneficiaries' names proposed by the Commission, the President concluded that the **Council accepted the objectives and considered that the means proposed by the Commission to achieve that objective are appropriate and proportionate**. However,

- some Member States still argued that the *de minimis* threshold was not necessary and should be abandoned for the sake of transparency: in their view, all beneficiaries of CAP payments should be listed;
- some others expressed concerns about the details given on the beneficiaries, fearing that the process might interfere with data on their private lives;
- lastly, some delegations believed that further consideration of this issue was needed in order to assess, whether the same objective could not be attained in a less intrusive way.

Calculation methods of public intervention expenditure

2022/2521(DEA) - 20/10/2011

Ministers held an **exchange of views** on the common agricultural policy (CAP) reform package thus launching within the Council the debate on the future of the CAP for the months ahead:

Direct payments: several Member States raised concerns or stated their opposition to the proposed redistribution of payments between Member States.

- On the proposed greening of the first pillar while they generally could agree with the introduction of "greening" measures in the first pillar, several questioned the compulsory character of the proposed measures or challenged the proposed 30% proportion of direct payment envelopes devoted to this "greening".
- In addition some delegations expressed their opposition to progressive reduction and capping of direct payments amounts.
- The proposed definition of "active farmer" also raised many questions.
- Actions proposed in favour of small farms and young farmers were generally well received.

Moreover, a vast majority of delegations raised concerns that the **direct payments and rural development** proposals seemed to run counter to the important objective of simplification of the CAP.

Market management mechanisms: most of the Member States acknowledged the measures proposed by the Commission. They noted in particular the importance of extending the existing possibilities to allow the Commission to take emergency measures.

- Some Member States regretted the Commission's intention to stick to the abolition of the sugar quota system for 2015, while others welcomed the confirmation that the sugar sector would be liberalised after 2015.
- Several delegations welcomed the proposals to strengthen the role of the farmer in the food supply chain with mandatory recognition of producers and interbranch organisations, while others were concerned that this would imply the risk of competition distortion.

The Council will hold **two more policy debates** on the CAP reform proposals before the end of the year: one on **direct payments in November and another on rural development in December 2011**.

It should be noted that the Commission prepared the CAP reform package following the interinstitutional debate initiated by its [communication](#) The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future and on the basis of impact assessments for the various policies. The new rules should enter into force on 1 January 2014.

In March 2011, the Council took note of the Presidency conclusions on the Commission communication supported by a very large number of Member States. These conclusions on the communication followed an initial exchange of views and three policy debates focusing on the three main objectives of the future CAP identified in the Commission communication, namely: (i) **viable food production**; (ii) **sustainable management of natural resources and climate action**, and (iii) **balanced territorial development**.

Calculation methods of public intervention expenditure

2022/2521(DEA) - 14/05/2012

Ministers held an **orientation debate on the greening of the common agricultural policy (CAP)** within the framework of the CAP reform. The debate covered provisions contained in three of the main proposals of the CAP reform package:

- [Regulation for direct payments](#) to farmers;
- **Regulation on the financing, management and monitoring of the CAP (the "horizontal" regulation)**;
- [Regulation for rural development](#).

While **broadly supporting the principle** of greening the CAP for the period 2014-2020 under the pillar I, delegations nonetheless made clear that, in order to achieve this ambition, an **adjustment of the modalities** proposed by the Commission was required.

Most delegations stressed that any additional greening measures had to be consistent with their specific objective circumstances be easy to apply and monitor, with the implementation costs remaining proportional and avoiding unnecessary red tape. A **more flexible approach** would help to take into account the diversity of agricultures in the EU and would avoid a "one size fits all" approach.

Many Member States considered that the scope of farming practices that are "**green by definition**" had to be widened to include pillar II agri-environment practices, as well as practices under national or regional environmental certification schemes. The Commission expressed openness to consider an adjustment of its proposal to take this into account.

On the **three mandatory greening measures**, a number of adjustments were suggested by delegations:

- **on crop diversification** : most delegations considered that there was a **need to increase the minimum threshold**, the minimal number of crops requested and to adjust the definition of crop. Moreover land predominantly covered by permanent grassland needed to be taken into account.
- **on the retention of permanent grassland**, and to maintain the management of these areas at regional or national level instead of farm level as proposed by the Commission,
- **on the Ecological focus area (EFA) and the 7% requirement** : most delegations wanted more flexibility and suggested a minimum farm area threshold; , areas under pillar II agrienvironment schemes with high benefits for the environment and climate needed to be taken into account.

Instead of the three mandatory greening measures as proposed by the Commission (crop diversification, permanent grassland and EFAs), some delegations would prefer a "menu" approach where member states could choose from a list of measures.

Other Member States would prefer to build greening upon existing instruments, especially cross compliance in pillar I and agrienvironment schemes in pillar II.

Lastly, a large majority of delegations estimated that the **level of sanctions** applicable when the greening objectives are not met should not go beyond the level of the greening payment and therefore should not affect the basic payment itself.

Timetable:

- The Council already held policy debates on the proposals for regulation on direct payments, rural development and on the single common market organisation during the three last Agriculture Council meetings in November and December last year and in January this year.
- In March 2012, Ministers held a debate on the simplification of the CAP.
- During its last meeting in April 2012, the Council held an orientation debate on young farmers, small farmers, voluntary coupled support and top ups for farmers in areas with natural constraints, as well as on internal distribution, active farmer and capping of support to large farms.

In June, the Danish Presidency intends to organise an orientation debate on the proposal on rural development and to present a progress report on the CAP reform.

Calculation methods of public intervention expenditure

The Presidency presented to the ministers its progress report on the reform of the common agricultural policy (CAP) (8949/12).

Member states broadly welcomed the progress report and overall considered it a fair and accurate reflection of the debate in the Council, which would lay a solid foundation for the next steps in the process under the Cypriot and Irish Presidencies. They also noted that the next presidencies had to deepen discussions on the open issues. Some delegations commented on issues of importance to them, particularly in relation to **capping, convergence of direct payments and greening**.

This progress report highlights the progress achieved during the first half of 2012 on the CAP reform proposals. It has been drawn up under the responsibility of the Presidency on the basis of the positions expressed within the Council and its preparatory bodies during this semester. It makes clear that nothing is agreed until everything is agreed.

The report highlights the efforts made by the Presidency, especially on increased flexibility, simplification and greening. It indicates the main amendments suggested to the Commission proposals and on which the Presidency has noted broad support from delegations.

The Presidency's suggested amendments aim to resolve a number of issues raised by delegations, particularly with a view to ensuring that future CAP legislation is workable in practice and can be implemented in a cost-effective manner.

This report also identifies for each of the proposals the key issues which remain outstanding as at June 2012, including issues contained in the negotiating box for heading 2 of the Multiannual financial framework (MFF).

The report distinguishes between three categories of issues:

- issues on which there is broad support among delegations for the amendments suggested by the Presidency to the Commission proposals;
- issues which remain outstanding as at June 2012;
- issues which are included in the negotiating box of the Multi-Annual Financial Framework and which the European Council will ultimately decide upon.

As regards the horizontal regulation : the Presidency has noted almost unanimous support to delete the delegated power conferred on the Commission to include the Water Framework Directive (2000/60/EC) in the scope of crosscompliance. Instead, the Presidency has suggested inviting the Commission to present a legislative proposal with a view to including the relevant parts of that Directive once it has been implemented.

A number of delegations have opposed the future inclusion of the Pesticides Directive 2009/128/EC in the scope of the cross-compliance by means of delegated acts and have taken the view that this should be contained in the basic act, and if not possible the Commission should submit a new legislative proposal to this effect. In the light of the views expressed by a broad majority of delegations, the classification of the Commission powers as delegated or implementing has been amended by the Presidency, except as regards administrative penalties.

Other issues include:

- most delegations support the reintroduction of the current set-up of **paying agencies** by the Presidency thus providing for the possibility of having more than one paying agency per Member State/per region and allowing paying agencies to specialise in certain support schemes;
- on **recoveries**, the moment the recovery procedure starts has been clarified in the Presidency text and the deadline by which Member States must request recovery from the beneficiary concerned has been extended as requested by a very large majority of delegations. The Presidency has reinstated the current 50/50 rule according to which Member States are charged for 50 % of amounts not recovered four years after the date when the debt was recognised, or eight years if the recovery process is being pursued in the courts, since the Commission proposal to charge Member States for 100% of such amounts was met by almost unanimous opposition by delegations;
- many delegations have expressed concerns about the **possible administrative burdens** arising from the common monitoring and evaluation framework of the common agricultural policy. It has therefore been specified in the Presidency text that, to the extent possible, the information to be provided by the Member States shall be based on established sources of data. It has further been specified that it is the Commission's responsibility in accordance with the Horizontal Regulation to monitor direct payments, market measures and the application of cross compliance based on the reporting by Member States. Finally, many delegations support the suggestion that the rules on the information to be sent by the Member States shall take into account the need to avoid any undue administrative burden;
- as regards the **farm advisory system**, a majority of delegations support the Presidency suggested amendments that limit the extension of the compulsory requirements to cross compliance requirements (SMR and GAEC), greening practices, and the maintenance of the agricultural area;
- as regards the **integrated administration and control system**, a large majority of delegations oppose the Commission proposal that the computerised database should contain data starting from 2000. Many delegations support the suggestion that only data relating to the previous ten years needs to be stored. A transition period has been provided in the Presidency text for Member States to comply with the 1: 10.000 scale cartography requirements for the identification system for agricultural parcels;
- many delegations support the Presidency text providing the possibility of **paying advance payments** even prior to 16 October, subject to an authorisation by the Commission, and the possibility to make advances after all checks relating to those applications for which the advances are made have been carried out;
- the **rate of the pre-financing of rural development programmes** and the possible maintenance of a safety margin triggering the financial discipline are included in the Negotiating Box for Heading 2 of the Multiannual Financial Framework (MFF);
- concerning **administrative penalties** relating to the greening payments most delegations raised concerns and requested the Commission to reconsider the scope and the level of sanctions applicable should the greening objectives not be met. Most delegations find that the administrative penalties concerning the greening payment should not go beyond the greening payment. Furthermore, some aspects of the classification of the Commission powers concerning penalties relating to the greening payments will require further fine-tuning;
- a number of delegations has expressed concerns about **flat-rate financial corrections** applied by the Commission in cases where calculating the amount of the financial correction on the basis of individual irregular payments or on the basis of an extrapolation of the results of examination of a representative sample of transactions is impossible or not cost-effective. Delegations have taken the view that it should be made clear in the horizontal regulation , rather than in guidelines to be issued by the Commission, that flat-rate corrections shall only be used as a last resort and that the calculation of any correction should be based on an assessment of the risk of losses to the EAFG and the EAFRD. However, the Presidency has decided to postpone possible redrafting to a later date, with a view to reflecting possible developments in this area in the context of the ongoing negotiations on the draft financial regulation;
- concerning the **deadline for transmission of annual accounts** of the EAFRD and EAGF and new terminology compared to the Council Regulation (EC) No 1290/2005 a number of delegations prefer that the deadline be postponed until 1 March and have expressed misgivings about the new scope of the obligations of the person in charge of the accredited paying agency;
- a number of delegations has taken the view that **Pillar II area based support should be exempt from cross-compliance**;
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most delegations have raised serious concerns as regards the possible increase in administrative burden and costs related to the new tasks for the certification bodies proposed by the Commission concerning certifying the legality and regularity of the underlying transactions and the respect of the principle of sound financial management. Most delegations remain unconvinced of the possible advantages (a reduction of on-the-spot-controls and more targeted calculation of the financial corrections) to compensate for the additional administrative burden. Possible amendments should also be seen in the light of the financial regulation;

- lastly, most delegations take the view that Member States should be able to keep 20 % of the sums recovered following the occurrence of irregularity or negligence and the 25 % of the amounts resulting from the application of reductions and exclusions for breach of cross-compliance requirements, rather than 10% as proposed by the Commission.