



NAT/780
EAFRD and EAGF transitional provisions

OPINION

of the European Economic and Social Committee

Proposal for a Regulation of the European Parliament and of the Council laying down certain transitional provisions for the support by the European Agricultural Fund for Rural Development (EAFRD) and by the European Agricultural Guarantee Fund (EAGF) in the year 2021 and amending Regulations (EU) No 228/2013, (EU) No 229/2013 and (EU) No 1308/2013 as regards resources and their distribution in respect of the year 2021 and amending Regulations (EU) No 1305/2013, (EU) No 1306/2013 and (EU) No 1307/2013 as regards their resources and application in the year 2021

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Rapporteur working alone: **Arnold Puech d'Alissac**

Study Group	EAFRD and EAGF transitional provisions
Rapporteur working alone	Arnold PUECH D'ALISSAC (FR/I)
Consultation	Council, 22/11/2019 European Parliament, 25/11/2019
Legal basis	Articles 43(2) and 304 of the Treaty on the Functioning of the European Union
Section responsible	Agriculture, Rural Development and the Environment
Adopted in section	06/03/2020
Adopted at plenary	07/05/2020
Plenary session	551 - Remote plenary session
Outcome of vote (for/against/abstentions)	254/0/7

1. **Conclusions and recommendations**

- 1.1 The EESC congratulates the Commission on its proposal for a transition year for the CAP (first and second pillars) in 2021; a year without direct aid from the first pillar would have resulted in deficits for all farmers; a year without aid from the second pillar would have interrupted commitments for high environmental and climate objectives and put back investment for modernisation.
- 1.2 According to the Commission's proposals, the transition period that will begin on 1 January 2021 should be one year. The EESC strongly recommends introducing a flexible mechanism for extending this period by an additional year, which would be triggered automatically if the EU's long-term budget (multiannual financial framework) and common agricultural policy are not agreed and approved by 30 October 2020.
- 1.3 The EESC is pleased that the conditions for receiving aid between 2020 and 2021 are remaining in force, as EU farmers have already got to grips with conditionalities and greening.
- 1.4 The EESC warns of the risk of setting the deadline for notifying changes at 1 August 2020. Too late an agreement on the 2021-2027 Multiannual Financial Framework (MFF) might fail to allow timely decisions to be taken at national level.
- 1.5 The Commission's approach in regularising the number and value of basic payment (BPS) entitlements is forward-looking.
- 1.6 Convergence of BPS entitlements remains at the discretion of the Member States, in accordance with the subsidiarity principle.
- 1.7 The possibility of extending the rural development programmes (RDPs) by a year has to go hand in hand with the possibility of using all second pillar funds not used during the period 2014-2020 after 2020.
 - 1.7.1 The Committee particularly stresses the urgent need to ensure rapid uptake of the second pillar with a view to getting activity going again after the crisis triggered by COVID-19. This would entail supporting young farmers setting up in business, the short supply chains which have been so important during the crisis, collective production and marketing initiatives and agrotourism. In this situation, particular attention must be given to outermost, island, mountain and remote regions which are heavily dependent on tourism.
- 1.8 The EESC welcomes the fact that second pillar multiannual measures (organic farming and agri-environment-climate measures) are extended by a year, but calls for the duration of the related commitments to be extended to five years, as in the 2014-2020 period. The proposal to limit this to three years will certainly generate red tape and certainly not lead to results for the environment.

2. Background

- 2.1 The budget programming period for the current CAP ends on 31 December 2020. Although the current CAP regulations are not formally limited in time, the absence of relevant budget allocations will make them inapplicable. Furthermore, the legislative proposals defining the CAP for the next programming period (2021-2027) are still under negotiation and unlikely to be adopted in time to allow this new CAP to be implemented as of 1 January 2021. The implementation of the CAP Strategic Plans, currently being drafted in each Member State, will start at the earliest on 1 January 2022. A Transitional Regulation for the year 2021 is therefore called for.
- 2.2 According to the Commission's proposals, the transition period that will begin on 1 January 2021 should be one year. The EESC strongly recommends introducing a flexible mechanism for extending this period by an additional year, which would be triggered automatically if the EU's long-term budget (multiannual financial framework) and common agricultural policy are not agreed and approved by 30 October 2020.
- 2.3 The Commission is currently working on drafting such a text, but it does not include the following points:
- the decision on convergence of BPS entitlements in 2020, scheduled to enter into force on 1 January 2020;
 - the amendments relating to the Programme of Options Specifically Relating to Remoteness and Insularity (POSEI), which enter into force on 1 January 2021.
- 2.4 This Regulation will extend and partially amend the existing regulations, in particular to provide for the budget envelopes related to the measures extended. It amends the following Regulations:
- 1303/2013: common provisions on the European Funds (Articles 1, 2 and 3);
 - 1305/2013: support for rural development (EAFRD) (Articles 6 and 8);
 - 1306/2013: financing, management and monitoring of the common agricultural policy (Articles 6, 7 and 9);
 - 1307/2013: rules on direct payments (EAGF) (Article 10);
 - 1308/2013: common organisation of the markets (CMO) (Articles 6, 7 and 11);
 - 228/2013 (and 229/2013): specific measures for the outermost regions (POSEI) (and specific measures for the smaller Aegean islands) (Articles 12 and 13).
- 2.5 The budget for 2021 will be consistent with the proposal for the 2021-2027 Multiannual Financial Framework (MFF), which has still not been unanimously agreed by the Council and has therefore not been adopted by the European Parliament (no amendment possible). Here are the Commission's proposals:
- 2021 budgets for the EAGF (EUR 39 884 billion) and the EAFRD (EUR 12 258 billion): consistent with the provisions of the Regulations on the future CAP and MFF;
 - all rules and requirements in force in 2021: support will continue to be granted to farmers for a further year in accordance with the conditions and requirements covering the period 2014-2020;

- transfer of funds: option for Member States to continue to transfer funds between the EAGF and the EAFRD after 2020, with a cap of 15% for all cases;
- allocation and value of BPS entitlements: the possibility of addressing errors made by Member States in the allocation of payment entitlements, in terms of both the number and value of these entitlements;
- convergence of value of BPS entitlements: option for Member States to continue the process of convergence of BPS entitlements after 2019: 2020 and/or 2021;
- crisis reserve: maintained during the transitional period at the same amount each year as in the 2014-2020 period, i.e. EUR 400 million (2011 prices);
- implementation of the EAFRD: option to extend the RDPs exceptionally by a year;
- second pillar multiannual measures (organic farming and agri-environment-climate measures): option to extend the multiannual measures for the 2014-2020 period by a year. For new commitments, a shorter timeframe (maximum three years) will have to be proposed by the Member States;
- CMO and POSEI: necessary adjustments to the allocations in order to respect the total amount of the EAGF provided for by the future MFF.

3. Notifications required

3.1 By 10 days after the entry into force of the Transitional Regulation:

- whether the rural development programmes are being extended until 31 December 2021.
 - list of regional programmes that need to be extended,
 - corresponding budget allocation in the context of the annual distribution for the year 2021 (and therefore the part of the 2021 budget that will not be transferred to the period 2022-2027),
 - subject to demonstrating the risk of lacking funds and not being able to undertake new legal commitments in accordance with the EAFRD Implementing Regulation for the period 2014-2020.

3.2 By one month after the entry into force of the Transitional Regulation:

- whether the procedure for internal convergence of BPS entitlements towards an average value is to be continued for the year 2020.

3.3 By 1 August 2020:

- whether the reduction of direct payments exceeding EUR 150 000 per year is to be applied for the calendar year 2021, and any estimated product of reductions for the year 2021;
 - whether a transfer of funds is to be made, and if so, the percentage transferred (up to 15%) of the 2021 EAGF, in order to provide additional funding for the 2022 EAFRD,
 - whether a transfer of funds is to be made and, if so, the percentage transferred (up to 15%) of the 2022 EAFRD, in order to provide additional financing for the 2021 EAGF;
- for 2021: whether a redistributive payment is granted;
- For 2021, the percentage of the 2021 EAGF ceiling for the following aid measures:
 - redistributive payment,
 - young farmers payment (N.B. statutory maximum: 2%),
 - voluntary coupled support (N.B. statutory maximum: 15%),

- payments for areas facing natural constraints under the first pillar,
- N.B.: The ceiling for the Basic Payment Scheme (BPS) is calculated by deducting the ceilings for other aid from the EAGF annual ceiling (as for the period 2015-2020);
- Whether the regional BPS is applied in 2021 (with regions being defined according to objective and non-discriminatory criteria, such as their agronomic and socio-economic characteristics, their regional agricultural potential or their institutional or administrative structure).
- Whether the procedure for internal convergence of BPS entitlements towards an average value is to be continued for the year 2021.

3.4 By 31 December 2020:

- modification of work programmes for the olive oil and table olives sector.

3.5 Distribution of the EAGF ceiling between the different categories of first pillar aid:

Member States have to notify the budget allocation for 2021 for each different category of first pillar aid, with the exception of greening, which remains fixed at 30% of the first pillar; in particular, Member States have the option of revising each year the part of the EAGF allocated to the redistributive payment and the optional coupled payments.

3.6 Reduction of direct payments:

- background: Article 11 of the current Regulation ((EU) No 1307/2013) only provides for a notification obligation for Member States as regards their decisions on implementing a reduction of direct payments to be granted to a farmer for a calendar year exceeding EUR 150 000 for the years 2015 to 2020;
- proposal in the Transitional Regulation: with a view to ensuring a continuation of the existing system, Member States also have to notify their decisions implementing a reduction of direct payments exceeding EUR 150 000 and the estimated product of reduction for the calendar year 2021. The Regulation provides more flexibility to Member States, allowing them to adjust the value of BPS entitlements or the reserve, possibly with different rates of adjustment. In this case, if Member States' notifications on the EAGF ceilings allocated to the different first pillar categories of aid affect the BPS ceiling, then Member States are to, depending on the modification of the BPS ceiling:
 - linearly reduce or increase the value of all BPS entitlements, and/or
 - reduce or increase the national or regional reserve.

3.7 Number and value of BPS entitlements:

- background: some Member States may have made errors in establishing the number or value of BPS entitlements when they were allocated in 2015. Many of those errors, even when they occurred for a single farmer, influence the value of the BPS entitlements for all farmers and for all years. Some Member States made errors also after 2015 when BPS entitlements were allocated from the reserve (e.g. in the calculation of the average value). These non-compliances are normally subject to financial correction until corrective measures are taken by the Member State concerned;
- proposal in the Transitional Regulation: in the light of the time that has elapsed since the first allocation of BPS entitlements in 2015 and the efforts made by Member States to establish,

where relevant, correct entitlements, and also in the interest of legal certainty, the number and value of payment entitlements should be considered legal and regular with effect from 1 January 2021. This rule does not apply to payment entitlements allocated to farmers on the basis of factually incorrect applications, except in cases where the error could not reasonably have been detected by the farmer.

3.8 Convergence of BPS entitlements:

In order to continue the process of convergence according to this "tunnel model" with a view to a fairer distribution of direct payments, Member States may continue to converge BPS values towards a national or regional average after 2019 instead of either moving towards a uniform rate or keeping the value of BPS entitlements at their 2019 level. The Transitional Regulation requires Member States to notify their convergence decision each year for the following year. This will be the case for 2020 and 2021. In the case of further internal convergence in 2020, BPS entitlements held by farmers on 31 December 2019 having a value below the national or regional average will benefit from an increase in their value for the year 2020. In order to finance this increase, the BPS entitlements held by farmers on 31 December 2019 having a value above the national or regional average will be reduced. The same mechanism is also possible for 2021.

3.9 Single area payment scheme (SAPS):

- background: some Member States implement basic payments outside the allocation of BPS entitlements, i.e. without historical references, via the SAPS. This scheme was only possible until 31 December 2020. However, the next CAP regulation also allows Member States to implement basic payments based on area rather than on historical references;
- proposal in the Transitional Regulation: the regulation allows for the extension of the SAPS after 31 December 2020 with the current modalities continuing to apply.

3.10 Partnership Agreement: the Member States' Partnership Agreement, setting out the common basis for support from the four European funds, including the EAFRD, for the period 1 January 2014 to 31 December 2020, must continue to be the framework strategy document for the year 2021.

3.11 Extension of the 2014-2020 regional RDPs for 2021:

- Member States may decide to extend one or more of their regional RDPs, to be notified to the European Commission within 10 days of the entry into force of the Transitional Regulation, including the corresponding budget as part of the annual breakdown for the year 2021;
- this notification is independent of the current procedure for revision of the RDPs;
- the notification must provide evidence of the risk of lacking funds and not being able to undertake new legal commitments in accordance with the EAFRD Implementing Regulation for the period 2014-2020;
- this extension will be financed from the EAFRD budget for the year 2021;
- the extended RDPs will have to preserve at least the same level of environmental and climate ambition;

- the Member States can also not extend their regional RDPs if funds remain from the previous years; in this case, they have the option of transferring funds from the 2021 EAFRD to the financial allocations for the years 2022 to 2025.
- 3.12 Consequences of extending the RDPs: this extension results in all deadlines (annual implementation report and annual review meetings required up until 2024, *ex-post* evaluation report to be completed by 31 December 2025) and the period of eligibility of expenditure (incurred and paid up until 31 December 2024) being put back by a year.
- 3.13 Extension and contracting arrangements for multiannual commitments:
- case 1: agri-environment-climate measures, organic farming – conversion and maintenance – animal welfare
For new commitments undertaken from 2021, Member States have to define a commitment period of between one and three years in their RDP(s);
 - case 2: agri-environment-climate measures, organic farming maintenance
If Member States provide for an annual extension of commitments after the end of the initial period, this extension cannot go beyond a year, from 2021. (N.B.: for support to organic farming, this extension option is only available for organic farming maintenance, not conversion);
 - case 3: agri-environment-climate measures, organic farming maintenance, and animal welfare
For new commitments immediately following a commitment undertaken during the initial period which comes to an end in 2021, these new commitments can only be undertaken for a period of one year.
- 3.14 Eligibility of expenditure covering national strategic plans (NSPs) and transition between programming periods: in order to facilitate the transition between previous and future programming periods, the following expenditure is to be eligible under the EAFRD for the period 2022-2027 and provided for in the NSPs (amount and EAFRD contribution rate).
- Expenditure related to commitments undertaken under previous programming periods [under Regulation (EU) No 1698/2005 or Regulation (EU) No 1305/2013] and going beyond 1 January 2024 or 1 January 2025 (case where five-year commitments were undertaken during 2019 or 2020).
- 3.15 Support programmes for the fruit and vegetable sector:
Producer organisations (POs) having an operational programme (OP) extending beyond 31 December 2021 have, by 15 September 2021, to submit a request to their Member State to the effect that their OP be modified to meet the requirements of the future Strategic Plan Regulation or replaced by a new OP approved under that Regulation. If the PO does not submit an operational programme for modification or replacement, the programme will end on 31 December 2021. The work programmes for the period 1 April 2018 to 31 March 2021 have to be extended until 31 December 2021. POs, associations of POs and interbranch organisations have to modify their work programmes accordingly and notify them to the Commission by 31 December 2020.

3.16 Support programmes for the olive oil and table olives sector:

The work programmes for the period 1 April 2018 to 31 March 2021 have to be extended until 31 December 2021. POs, associations of POs and interbranch organisations have to modify their work programmes accordingly and notify them to the Commission by 31 December 2020.

3.17 National apiculture programmes:

The national programmes will have to end on 31 July 2022. The articles of Regulation (EU) No 1308/2013 concerning apiculture programmes will continue to apply after 31 December 2021 in relation to expenditure incurred and payments made for operations implemented before 1 August 2022.

3.18 Support programmes in the wine sector:

- background: EU funds are allocated to Member States through national support programmes for five years to finance specific support measures for the wine sector;
- proposal in the Transitional Regulation: the national support programmes end on 15 October 2023. The articles of Regulation (EU) No 1308/2013 concerning support measures from national support programmes will continue to apply after 31 December 2021 in relation to expenditure incurred and payments made for operations implemented before 16 October 2023.

Brussels, 7 May 2020

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