Council of the European Union

Brussels, 18 September 2024
(OR. en)

13500/24

AGRI 657
AGRILEG 390
AGRIFIN 102
AGRISTR 61
AGRIORG 126

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	The Common Agricultural Policy (CAP) and performance of the New Delivery Model *- Information from Latvia, supported by Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Lithuania, Luxembourg, Malta, Portugal, Romania, Slovakia, Slovenia, Spain, and Sweden.*

Delegations will find in the Annex a note from Latvia, supported by Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Lithuania, Luxembourg, Malta, Portugal, Romania, Slovakia, Slovenia, Spain, and Sweden on the above-mentioned subject, to be dealt with under "Any other business" at the Council (Agriculture and Fisheries) on 23 September 2024.

ANNEX

The Common Agricultural Policy (CAP) and performance of the New Delivery Model

Information from Latvia, supported by Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Lithuania, Luxembourg, Malta, Portugal, Romania, Slovakia, Slovenia, Spain, and Sweden.

Following the last CAP reform, CAP strategic plans for the new period are based on the **delivery of performance, the so-called New Delivery Model** (NDM). This model replaces the previous compliance-based approach with a new results-based approach, with a more streamlined approach that sets targets for the whole policy. The New Delivery Model delivers results taking into account the specific needs of each country, promising more flexibility for Member States and allowing Member States to strive towards common EU objectives through their own CAP Strategic Plans that suit better their national and regional contexts.

The results-based approach implies annual and multiannual assessment on the basis of selected outputs, result, impact and context indicators. **For the purpose of performance clearance** under the NDM**, one of the key new elements** that Member States are required to include in their CAP Strategic Plan **is the planned unit amounts**, or values expected to be paid for each related output. At the same time, according to the legislation, despite the additional new elements the **CAP should significantly decrease the administrative burden**[1].

[1] Recital 3 of Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013 (Regulation (EU) 2021/2115)

However, Member States' experience with the first Annual Performance Report (APR) shows that, in practice, the **NDM and performance clearance is a complex and difficult** process based on a theoretical mathematical calculation of the planned funding required per output or unit amount, against which the realised unit amount in reality is almost always subject to deviations. It should be noted that Member States have drawn these conclusions already after the first APR, which only contains information on a limited number of interventions implemented in the first year. However, the **greatest difficulties are to be expected in the following years**, when an increasing number of interventions will be implemented by the Member States and an increasing number of realised unit amounts will have to be reported.

The situation of deviations between planned and realised unit amounts **is particularly problematic for non-IACS interventions** of the CAP. For these, deviations from the planned unit amounts are almost always to be expected, given the specificities of CAP implementation and various external factors which cannot be foreseen or reliably predicted by the national authorities: unpredictability of the financial capacity of the projects to be submitted by applicants (ranging from a few tens of thousands to several hundreds of thousands of euro); differences between the time of actual implementation of projects and the planned timetable for payments; inflation; for some Member States, also differences of the currency exchange rate, or simply an error in the planning due to a new intervention; etc. In addition, Member States may provide additional national financing (top-up) for the implementation of interventions, which is not taken into account for the calculation of the unit amounts but is taken into account for the realised outputs. This means that it is almost **impossible to predict a correct planned unit amount and even less likely that the realised unit amount will be in line with the planned one** without causing deviations.

It should be noted that **Member States are obliged to provide justification in the APR for deviations from the planned unit amounts exceeding 50%**[2]. However, each CAP Strategic Plan includes several hundreds, in some Member States even thousands, of planned unit amounts.

[2] Article 134(9) of Regulation (EU) 2021/2115

During the CAP reform, there were intense discussions on the NDM, performance clearance and unit amounts. Member States already at that time pointed out that accurate forecasting and realisation of unit amounts with no deviations would not be possible, in particular for non-IACS rural development interventions; moreover, the submission of justifications would impose a significant administrative burden on Member States' authorities. At that time, it was made clear by the European Commission (Commission) that only simple and proportionate necessary justifications for deviations would be required. Unfortunately, the practical Member States' experience of the first APR and performance clearance process shows that **while according to the legal basis justification shall be provided only for deviations exceeding 50% or more, in practice it is being demanded for every, even the slightest deviation.** Moreover, the **justifications provided by Member States are often considered insufficient by the Commission**, requiring additional extensive justification and information; this makes justification an overly complex exercise imposing an increased administrative burden on the Member State authorities. Consequently, the process of preparing the APR by reporting at unit amount level has become more complex and detailed compared to the programming period of the Rural Development Programme 2014-2020. Moreover, despite the significant investments made by Member States in adapting their IT systems for administration and reporting, the manual work involved in preparing justifications and thus the administrative burden for authorities has increased contrary to the intended simplification.

At the same time, we see that the achievement of the result indicators is significantly affected by the current economic situation, the impact of Russia's war of aggression against Ukraine, natural and climatic conditions, which have led beneficiaries to become more cautious and choose not to make additional financial commitments for the coming years. It is therefore particularly **important to assess the results of the CAP not only quantitatively but also considering the context of the current situation**. The multiannual nature of interventions (in particular in rural development), for which the result indicators cannot be achieved within one financial year, should also be taken into account. In view of the experience with providing justifications for deviations of unit amounts, **Member States have legitimate concerns about the possibility of justifying deviations from the milestones and the financial consequences associated with those justifications**.

It should be noted that Cohesion Policy is also positioned as a results-based policy. However, the planning of the results is done for the whole programming period rather than on annual basis and eligibility of expenditure is not based on unit amounts.

In the light of the above, and taking note of the legal requirement that performance framework shall be established under the shared responsibility of Member States and the Commission[3], and to ensure that it is also as simple as possible, implementable, and clearly understandable for everyone, **also with a view to future policy**, **delegations call on the Commission to**:

- **recognize financial years 2023 and 2024 as learning period and not impose** suspensions or reductions from Union financing on Member States in case of deviations from milestones and unit amounts, taking into account the necessary adaptation to requirements of the NDM.

- **immediately adopt a proportionate and balanced approach regarding the justifications** by providing clear guidelines to Member States, which would be in accordance with the legal acts and the agreement reached during the CAP negotiations on what is considered sufficient justification, while preventing requests to submit justifications for any, even the slightest deviation. This approach shall be fully understood and applied by the Commission, across all areas, both policy and audit, as well as Member states' institutions (paying agencies, certification bodies), eliminating the possibility of interpretation.

- **simplify and reduce the level of detail** of the APR in order to reduce the administrative burden on competent authorities.

- **reconsider the application of unit amounts to non-IACS interventions of the CAP**, given that it is a more mathematical calculation but does not necessarily indicate misuse of CAP expenditure and does not pose a risk to CAP funds. Moreover, there is no added value of this exercise in terms of progress towards CAP results and objectives.

[3] Article 128 of Regulation (EU) 2021/2115

- **give greater flexibility for Member States** as provided for in the legal acts[4] to reach their objectives **allowing to revise milestone and target values** when changing circumstances (economic, climatic and geopolitical) that the agricultural sector is constantly facing, make these unavoidable. This would ensure greater coherence between the CAP and the changing socio-economic situation.

- **launch discussions and present guidelines for action plans** foreseen under Article 135 of Regulation (EU) 2021/2115 **in a timely manner** to ensure common understanding and predictability for Member State authorities.

---

[4] Recital 86 of Regulation (EU) 2021/2115