

**Opinion of the European Committee of the Regions — The simplification of the common agricultural policy (CAP)**

(2015/C 423/03)

**Rapporteur:** Anthony Gerard BUCHANAN, Councillor, East Renfrewshire Council (UK/EA)

**I. BACKGROUND**

THE EUROPEAN COMMITTEE OF THE REGIONS,

1. welcomes the request from the European Commissioner for Agriculture and Rural Development for the Committee of the Regions to be involved in this exercise which he has signalled as his top priority for 2015;
2. agrees with the stated aim that a simpler framework for the common agricultural policy (CAP) would increase competitiveness in the agricultural sector, save time and reduce costs for all the actors in the CAP, including farmers, economic operators and public authorities;
3. believes that the added value of the CoR contribution is to focus on the territorial aspects of the CAP and to promote subsidiarity and multi-level governance as a significant part of CAP delivery is managed through Local and Regional Authorities;
4. intends to formulate not only short-term proposals that can improve the current regime while ensuring the delivery of the CAP objectives and ensuring legal certainty for beneficiaries but also to use this opinion as a springboard to launch the discussions at the CoR on the future of the CAP post-2020;
5. supports a continued liberalisation and simplification of the CAP and no return to failed policies of the past which isolated farmers from the market but insist that this should not be made at the expense of food security or undermine farmers' ability to draw a fair income for their delivery of products to the market;

**II. POLICY RECOMMENDATIONS**

**Subsidiarity v common EU policy,**

6. recalls that the new CAP, has as one of its distinctive features a significant increase in decentralisation with many provisions left to Member States and in many cases to regional authorities: issues such as decisions on how much scope there is to transfer between Pillar 1 (direct payments) and Pillar 2 (rural development), the definition of active farmer, minimum requirements for direct payments, voluntary coupled support, capping of direct payments and regionalisation are among the issues that it is up to Member States and regions to decide;
7. notes that Member States requested derogations and exemptions that significantly contributed to the current concerns about the growing complexity of the CAP;
8. recalls that the CoR opinion CdR 65/2012 already recommended greater application of subsidiarity in the reform to ensure more flexibility for Member States and regions. However in bringing more subsidiarity, multi-level governance and territorial cohesion should not result in an scenario whereby the CAP becomes excessively fragmented and is unable to operate as a single EU policy;

**Key simplification criteria**

9. believes that a core litmus test for any further simplification of the CAP is that Member States, regions and local authorities can be empowered to have more flexibility over implementation and the certainty of controls so long as this does not distort the EU-wide level playing field that the Common Agricultural Policy, as an EU policy delivering on EU-wide goals, must ensure;

10. warns that simplification of the CAP cannot be now used in a way that dismantles a wide range of public goods, particularly environmental ones, that the CAP is meant to deliver;

11. insists that any simplification of CAP rules needs to ensure that competitive food production is ensured while farmers can obtain a fair outcome from the market, incentives are provided to farmers and local communities to provide public goods such as environmental protection, social inclusion and rural services so that communities are empowered as to provide them the means to diversify economic activity thus reducing depopulation;

12. insists on the need for more consistency and complementarity between CAP and other EU policies such as the Environmental Policy (and funds). Greater consistency is most needed between the Rural Development and the rest of European Structural and Investment (ESI) Funds jointly delivering a Common Strategic Framework based on the broad policy objectives of the Europe 2020 Strategy;

13. believes that the bargaining power of farmers vis-à-vis other actors in the food chain (mainly input suppliers, retailers and processing industry) must be strengthened and market transparency improved so that primary producers receive a fairer share of the market price. Fair competition must be ensured and we call on the Commission to investigate all potential abuses of buying power along the food supply chain;

14. believes that, in the ongoing review of CAP rules involving more than 200 pieces of legislation including environmental focus areas (EFAs), basic payment scheme for farmers and CMOs or rules for geographical indicators, it is essential that legal certainty and predictability for the beneficiaries is ensured;

15. considers that the simplification of the CAP would provide the most added value in the targeted reduction of administrative burden on farmers and beneficiaries such as rural communities, improve the clarity of the legal framework, ensure more consistency between the two pillars of the CAP while ensuring the sound management of CAP finances;

16. recommends a more effective approach to data sharing, and integrated IT solutions such as electronic forms and databases that can provide a one-stop-shop that reduces the form-filling burden for farmers, land managers and managing authorities. This requires a prior risk assessment on what and which data can be shared and also requires the involvement of the Commission and audit bodies including the ECA to avoid audit issues further down the line;

17. welcomes the creation of the high-level group on simplification of the ESI funds and the fact that particular focus should be given to the impact in beneficiaries. Proposes that one of its members be a representative from the Committee of the Regions. Such representative will seek input from and report back to the NAT Commission, CoR national delegations and nominating bodies as well as the CoR Subsidiarity and Europe 2020 networks;

**Pillar 1 and Pillar 2**

18. recalls that the CAP 2014-2020 has continued to be divided between a large Pillar 1 focused on direct payments and a smaller Pillar 2 focused on rural development. As the transfer between pillars is decided nationally or regionally this is welcome in terms of subsidiarity, but it has also resulted in a very complex picture EU-wide. In its opinion CDR 65/2012, the CoR supports the possibility of transferring up to 10 % of the funds from the first to the second pillar rather than the other way around;

19. notes that progress has been made in ensuring demarcation in between pillars but clear overlaps continue in issues such as areas of natural constraints, environmental protection and support for young farmers, as well as in the relationship between Pillar 2 and the other ESI funds;

20. believes that in an ideal scenario there should not be such overlaps and perhaps post-2020 there could be an EU policy instrument focused on supporting food production, another to deliver sustainable development and a third to empower rural communities to diversify away from farm production, with consistency and no overlap between them. However at the present moment simplification should focus on reducing these overlaps and in ensuring that the existing rules do effectively prevent beneficiaries from receiving 'double funding' from the two pillars for delivering the same activity;

21. insists that the Commission can play an active and supportive role throughout the period in critically assessing the choices initially made by Member States and managing authorities so as to facilitate the changing of these priorities over the period if they have not delivered real added value, while at the same time ensuring that such changes do not alter the legal certainty of beneficiaries throughout the programme;

### **Greening**

22. believes that, while the greening of the CAP is one of the key innovations of the new programming period, their implementation is often perceived as being excessively complex and the Commission's interpretation as being excessively inflexible, particularly on practices equivalent to greening, as well as Commission delegated and implementing acts going well over and above the text of the regulations;

23. notes the concerns that the provision of evidence on crop diversification, inspection rates, minimum size of area or the rules on keeping permanent grassland are too burdensome for beneficiaries;

24. emphasises that the CAP must be fair to all farmers. However, the natural conditions, costs of production and general living standards are not the same around Europe and must be taken into account in the redistribution of support, therefore considers that support should reflect EU agricultural diversity;

25. recalls its opinion CdR 65/2012 that urged for more subsidiarity so that local and regional authorities are empowered to initiate and manage targeted environmental measures including through territorial contracts in partnership with local farming, environmental and socioeconomic stakeholders and with the categories of measures open to all farms;

26. insists that the credibility of the CAP can only be ensured if it not only supports food production, income support for farmers and contributes to rural development, but if it also delivers biodiversity and climate objectives;

27. notes that the CAP has the second-largest share of the EU budget and has a strong territorial dimension and together with regional policy is the main instrument to deliver EU environmental commitments;

28. fears that given the way greening has been designed it will not deliver its full potential with, for instance, the vast majority of farms in the EU not required to implement environmental focus areas (EFA) status;

29. recalls that at the same time there are wide concerns from beneficiaries that the greening rules are exceedingly complex, often leading to discouragement rather than encouragement of sustainable farming practices;

30. believes, however, that simplification of CAP greening rules cannot be used as an excuse to weaken its environmental goals. Changes to the rules should be driven by scientific evidence ensuring that these changes are environmentally sound and it is that evidence that should frame the extent of any new changes in administrative procedures to beneficiaries to reduce their regulatory burden;

31. recalls that the existing CAP rules allow for the adoption of measures equivalent to greening and believes that these equivalent measures can, in some circumstances, be a reasonable alternative, provided that they enhance, or at least do not weaken, CAP environmental outcomes;

32. believes that proportionality should be added to the inspections and compliance rules on greening by enabling higher tolerance levels to minor infractions, adverse climatic conditions and unexpected events beyond the control of beneficiaries. This is particularly relevant for the first years of the introduction of the CAP new rules where the risk of errors is likely to be high, also due to the fact that the Managing Authorities and the Commission's own guidance was belatedly produced;

33. proposes more flexibility on mapping so that the beneficiary does not have to declare all the elements in the concerned area thus avoiding the risk of over declaration;

#### **Active farmers**

34. recalls that one of the key changes in the new CAP rules is that it aims to ensure that the CAP benefits only those farmers that actually work the land and not those commonly known as 'slipper farmers', as the Committee already called for in its previous Opinion CdR 65/2012;

35. notes that, while this is done via the minimum activity requirements requiring proof of minimum stocking density to be provided by the beneficiary, there are concerns that the rules as formulated do still leave leeway for non-active farmers to continue to benefit from CAP payments;

36. is concerned, however, that the current rules and definitions about active farmers are exceedingly complex and should be clarified. Member States must be given the option of setting their own criteria for active farmers, provided that the general principles of EU law are observed;

#### **Young farmers and small farmers**

37. supports the specific recognition of small farmers within the CAP as they make up a very significant percentage of rural employment in several EU Member States and had previously proposed as a simplification measure that the minimum support threshold to be raised to EUR 1 000;

38. believes that young farmers are drivers of a diversity of economic and environmental outcomes both on-farm and towards the wider rural community;

39. recommends that the new CAP financial and legal provisions be reassessed so as to ensure that they really incentivise the entry of young farmers. They need to be more flexible in recognising young farmers' role within the actual legal and economic realities on the ground (transfer of entitlements, older farmers that only recently start farming activity, etc.), with young farmers starting their careers alongside older family members or other rural entrepreneurs;

#### **Cross-compliance**

40. notes that there are different percentages in the Regulation (5 %) and the Delegated Regulation (3 %) to define when a penalty should be set. It is widely considered that a 3 % rate is disproportionate;

#### **Commission guidelines**

41. is concerned that, in spite of the stated aims of the new CAP in reducing EU-level legislation, the Commission regulatory output via delegated legislation has increased, with guidelines often treated by the Commission as equivalent to legislation;

42. insists that the gold-plating of EU rules by introducing additional national or regional guidance should be avoided. In that respect the belated production of Commission guidance has in itself contributed to the complexity of the CAP and this increases the likelihood of audit risk further down the line;

43. believes that whenever EU guidelines or legislation provide a degree of flexibility, national and managing authorities should avoid adding over-prescriptive and difficult-to-verify provisions;

44. calls for the ongoing review process of CAP instruments to be done using the new better regulation and regulatory fitness (REFIT) criteria that have been recently formulated by the Commission;

### **Audit burden**

45. considers that, like other EU funds, the CAP continues to have a multi-layered level of audit, often with different interpretations. This creates legal uncertainty for national, regional and local authorities but crucially for beneficiaries;

46. believes that CAP should move towards a more proportionate and outcome-based approach to inspections and audit, focusing less on penalties and more on improvement and in ensuring that the broader outcomes of the CAP are achieved. A key criteria of simplification for beneficiaries, including local and regional authorities is the reduction of the number of inspections required, with the existing 5 % on-the-spot checks it is often seen as too burdensome;

47. advocates a risk-based, more flexible and proportionate approach to inspections so that more than one type of inspection can be carried out on a single visit and giving, in justified cases, early notice of inspection so as to ensure these can be carried out efficiently and with limited disruption to the daily work of farmers and other beneficiaries. When there is a high chance of errors, pre-inspections could take place so as to help increase compliance and ownership from the beneficiary;

48. is concerned that the new Article 9 of the CAP Horizontal Regulation will increase the annual inspection burden and stresses the need to reduce to a minimum additional national audit rules. These should be risk-assessed on their consistency with EU audit rules and practices, and need to be developed with the prior advice of the EU auditors;

49. insist that for the future the risk based approach to audit should be developed further to arrive at a scenario whereby if a national and regional authority is able to demonstrate that it has a domestic audit system no further EU audit is required from the Commission or the European Court of Auditors, other than very exceptional, random checks to ensure that the national audit system remains robust;

50. is concerned that the audit regime will *de facto* be more burdensome this time round and believes that, to prevent this, managing and audit authorities need to get together from the early stage of design of the schemes, so as to avoid contradictions later on and the need to perform multiple audit checks by different bodies on the same activity. Considering the slow pace of the launch of the CAP schemes this exercise is still possible in many countries and regions;

51. believes that compliance can improve via more transparency of the audit process with the Commission publishing its audit findings at an early stage in the process and by results of conciliation and appeals being made public as soon as they are finalised;

52. considers that, while the new Common Market Organisation (CMO) has been in itself a great simplification move by replacing the previous 21 CMOs and eliminating 81 legislative pieces, there is room for improvement in reducing the amount and scope of reporting that it is required to submit to the Commission;

## Rural Development

53. notes that in many Member States, rural areas are not only synonymous with agriculture, but are also home to small business operations outside food production as well as being areas for settlement;

54. recalls previous opinions in which the CoR had deemed it crucial, in line with the EU objective of territorial cohesion, to reserve a sufficient share of funds for the development of rural areas, by boosting the European Agriculture Fund for Rural Development (EAFRD) to ensure the harmonious and integrated development of these areas, including the provision of local infrastructure; supporting SMEs, village renewal and wider economic diversification;

55. insists on the need for a holistic rural development policy that also ensures access to the other ESI funds to jointly deliver the Europe 2020 common strategic framework priorities;

56. regrets in that respect that rural development investments continue to be focused on similar farming activities that are already supported in Pillar 1; urges the Commission to use the likely review of the rural development programmes (RDPs) throughout the period to entice managing authorities to move away from those interventions when they have not provided sufficient added value in terms of meeting Europe 2020 objectives and towards diversifying and empowering rural communities;

57. is concerned that there has been a significant delay in approving the rural development programmes, even resulting in the 2014 budget having to be shifted to later years;

58. finds that a significant reason for these delays is due to the internal coordination between Directorates-General, with approval often led by the speed of the slowest official in the inter-services consultation review. A proposal for the future could be to second officials from the other DGs to DG AGRI during the RDP approval process;

59. considers that, given the slowness of the Commission to come forward with guidance and delegated legislation, a sensible approach for RDP negotiation is for the Commission not to require RDPs be presented until such EU rules are produced. This would not reduce the delays in Programme approval but would simplify their negotiation;

## Community-led local development — Leader

60. notes that that the community-led local development instrument has gone beyond the previous Leader initiative to empower local communities, not only via EAFRD but also the other three ESI Funds; the CoR in its opinion CdR 1684/2012 had signalled CLLD as one of the breakthroughs of the current programming period;

61. regrets however that, while in some Member States, regions and local authorities CLLD will be used extensively, in many others CLLD would amount essentially to the previous Leader initiative focused in the EAFRD;

62. believes that this is a missed opportunity for rural communities and finds this is due to patchy coordination between the ESI Funds, different reporting and audit rules still being applied to each Fund, which are often run in separate management and ministerial lines. It is equally concerned that the new audit rules for CLLD are more burdensome for accountable bodies and local action groups (LAGs);

63. insists that there should be recognition that in most cases it is the local authority that ensures that LAGs can deliver CLLD;

64. is thus concerned that a strict application of the 51 % voting majority for non-public members in LAG decisions would sometimes not take place in practice, and thus municipalities as accountable bodies would be penalised for this; insists therefore that such penalties be proportionate whenever the accountable bodies can demonstrate that they did involve private and civic groups in LAG decision-making;

65. notes that the rules on maximum size of LAG population and minimum size of LAG budget give Member States a degree of discretion to depart from the Commission guidance in justified cases but regrets that there has been insufficient use of such discretion resulting in some LAG areas not being defined in a way that better reflects existing geographies.

Brussels, 13 October 2015.

*The President  
of the European Committee of the Regions*

Markku MARKKULA

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