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POLICY ANALYSIS

commissioned by **Martin Häusling, MEP**

Post-2022 CAP in Trilogue Negotiations: Reflections and Outlook for CAP Strategic Plans

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List of Abbreviations

AECM	Agri-Environment and Climate Measures
AKIS	Agricultural Knowledge and Information System
ANC	Area of Natural or other area-specific Constraints
CAP	Common Agricultural Policy
CMO	Common Market Organisation
DG AGRI	Directorate-General Agriculture and Rural Development
EAFRD	European Agricultural Fund for Rural Development
EFA	Ecological Focus Area
FAS	Farm Advisory Services
GAEC	Good Agricultural and Environmental Conditions
GHG	Greenhouse Gas
GNB	Gross Nitrogen Balance
IACS	Integrated Administration and Control System
MS	Member States
PMEF	Performance Monitoring and Evaluation Framework
RDP	Rural Development Programme
SMR	Statutory Management Requirements
SWOT	Strengths, Weaknesses, Opportunities, Threats
UAA	Utilised Agricultural Area

Contents

Introduction

With its initial proposal published in June 2018, the European Commission outlined a reform package for the future Common Agricultural Policy. This reform includes three new regulations establishing rules on 1) the CAP Strategic Plans; 2) financing, management and monitoring the CAP; and 3) Common Market Organisation for agricultural products.

In May 2020, the Commission published the Farm to Fork and Biodiversity strategies as part of the European Green Deal objectives for the European Union (EU) and its citizens. These strategies set up important targets to improve the sustainability of farming and food systems, to introduce specific climate change and biodiversity measures and to enhance the protection of the environment. Among various regulatory and non-regulatory actions, the reform of the CAP reform was a cornerstone to achieving the objectives and targets pledged in the European Green Deal.

In October 2020, the European Parliament and Council reached an agreement on their respective positions on the Commission's CAP reform proposals. These positions gave them a mandate to start the interinstitutional negotiations with the European Commission. The so-called 'trilogue' negotiations between the co-legislators are expected to proceed in the course of 2021.

At national level, the Member States made progress in 2020 but have not yet completed their CAP Strategic Plans. Many Member States have published the drafts of their SWOT analyses around the Agricultural Knowledge and Information System (AKIS), the nine CAP specific objectives, and the CAP horizontal objective on simplification.

In the coming months of 2021, the Member States will continue to monitor the trilogue negotiations at EU level, while also working towards the next preparatory phases, including the assessment of needs, designing of intervention strategies, and setting up of arrangements for the new delivery model. Much still needs to be prepared in 2021 and 2022 before the final submission, approval, and entry into force of the 27 National CAP Strategic Plans, most likely not before January 2023.

Given this timeline and the broader political context, this study was commissioned by Mr Martin Häusling (Member of the European Parliament, Green Group) to analyse the positions of the co-legislators and outline various reform scenarios for CAP post-2022, so as to support an informed debate on the future of CAP. More specifically, it aims to answer the following policy questions:

- What are the opportunities and limitations of the positions adopted by the co-legislators in October 2020, particularly in relation to the integration between the CAP reform and the European Green Deal?
- What policy scenarios are still available to align the CAP to the European Green Deal, also including the withdrawal of the 2018 Commission's proposal and the preparation of new legislation?
- What can be expected from the National CAP Strategic Plans in relation to the European Green Deal objectives, by considering the first preliminary steps made by the Member States in 2020?

The study is based on the screening, review and cross-comparison of policy documents, legislations, scientific and evaluation studies.

Chapter 2 presents an in-depth analysis of the positions adopted by the co-legislators on the CAP legislation in relation to the European Green Deal. This chapter demonstrates that the co-legislators have often deviated from, or insufficiently aligned the CAP reform to the conditions outlined by the Commission in May 2020 to accommodate the European Green Deal objectives.

Chapter 3 outlines and discusses four policy scenarios to reform the post-2022 CAP. Reaching a better agreement during the interinstitutional negotiations is the most auspicious direction, although this would imply substantially improving the political approach and cooperation between the co-legislators and the Commission. Another scenario discussed here is the withdrawal of the 2018 Commission's initial proposal, which remains a legal and reasonable alternative for the Commission to bring forward a new and more ambitious package of legislative proposals. The third scenario explores the challenges and opportunities to boost and steer the ambition of the National CAP Strategic Plans through various official phases, namely: design, approval and performance reviews. The chapter concludes by examining also the role of the future CAP networks at European and national level.

Chapter 4 gives an overview of the experience of the Member States in preparing the national CAP Strategic Plans in 2020. This chapter shares reflections on how selected countries such as Italy, France, and Ireland have worked towards a new delivery model, de-centralised governance capacity, eco-scheme design, assessment of needs, and a higher level of transparency and stakeholder inclusions.

Chapter 5 explores a specific case study of Germany. The case study raises critical observations and recommendations for the new green architecture and supports for organic farming.

Finally, chapter 6 presents some conclusions and recommendations. This chapter summarises the state of play and the various policy scenarios for CAP reform and sets out recommendations to overcome the many challenges in designing and implementing ambitious CAP Strategic Plans.

The positions adopted by the co-legislators in relation to the European Green Deal

In 2020, the Commission announced two important strategies to meet the European Green Deal ambition for the future of farming, food, and environmental protection: the Farm to Fork Strategy and the Biodiversity Strategy. In the attempt to protect nature and accelerate a fair transition towards a more sustainable food system along the whole food chain – from production, processing, distribution and consumption, to food waste prevention – these strategies set forth a number of regulatory and non-regulatory initiatives, including the reform of the CAP post-2022 (at the end of a two-year transitional period that extends the current 2014-2020 programming rules until 2022).

Announced as a "man on the moon moment", the European Green Deal offered the opportunity to address many sustainability problems with a new food system approach. However, it also contained key weaknesses, among which, the following are particularly relevant:

- *A weak approach to improving the regulatory framework,* such as putting forward a new legislative proposal for the CAP reform or ensuring its legal and policy alignment with the strategies. However, more attention was given to incentives which favour business as usual and existing system winners (e.g. extending the EU Emissions Trading System to agriculture, or mainstreaming nutriscore labelling which supports health-washing and gives an advantage to supermarkets, discount retailers, and packaged food products).
- *A low level of ambition in the setting of objectives and targets*, especially regarding the need to target actions against main polluters and powerful food industry lobbies who benefit from an increasingly centralised, capital intensive, global food system and a downward pressure on prices and standards.
- *Weak accountability mechanisms to measure target achievements* (e.g. lack of harmonised definitions, outdated baseline values, and problems with data availability and collection).
- *Insufficient targets for increasing organic production*. Only a target for increasing the EU share of organic land is included, while targets for the share of organic aquaculture production and livestock units are missing from the Farm to Fork Strategy. Furthermore, it lacks a list of instruments and a strategy to achieve these targets through the CAP reform (e.g. Organic Action Plan).
- *Lack of serious commitments for addressing unsustainable trade at global level*, by starting from the reform of the Common Market Organisation (and its import/export licences with third countries), effective due diligence and impact assessments of partnership agreements with third countries, through to the design and monitoring of interventions under the CAP Strategic Plans Regulation, like the role of transnational associations of producer organisations or animal welfare standards.
- *Little concern for governance*, particularly as regards the role and capacities of regional and local authorities, business enterprises, farmer-consumer cooperation, and civil society organisations acting on the ground towards a just ecological transition.

After some hesitation on whether to pursue a 'renewal' or 'survival' strategy, the Commission eventually judged that the initial 2018 CAP proposal could survive and accommodate the European Green Deal's ambition. The "CAP reform proposal is compatible with the Green Deal and associated strategies", concluded an analysis published by the Commission in May 2020 on the links between the CAP and the European Green Deal.

However, "making the post-2020 CAP compatible with the Green Deal objectives required major changes to the June 2018 draft regulations for the future CAP": concluded the policy analysis of a recent study commissioned by the AGRI Committee of the European Parliament (Guyomard et al., 2020).

To make the CAP reform compatible with the European Green Deal, the Commission called upon the EU co-legislators to respect certain conditions mainly related to the CAP Strategic Plans Regulation. These conditions were outlined in a Staff Working Document published in May 2020, and included legislative improvements in the other two CAP regulations, namely the Horizontal Regulation and more importantly the Common Market Organisation Regulation (CMO). Specific recommendations to improve these two pieces of legislation, however, were largely overlooked, despite their strong influence on many market mechanisms governing the production, trading, and monitoring of forestry and agri-food transactions at multiple governance level, from regional to global.

To align the 2018 CAP legal proposal to the Green Deal, the Commission demanded that the co-legislators:

a) Respect the 'no backsliding' principle

b) Enhance the system of conditionalities

c) Maintain the mandatory provision of eco-schemes in the CAP Strategic Plans

d) Ring-fence a minimum of 30% for environmental spending under Pillar II

e) Improve the data collection requirements

f) Provide specific provisions to improve the position of farmers in the food supply chain

Besides retaining these aspects in the initial 2018 proposal, the Commission required additional legal improvements, and called on the co-legislators to amend the legal text by introducing:

g) Minimum ring-fenced spending for eco-schemes

h) Additional indications on the practices that could be supported under eco-schemes

i) Integration of the animal welfare and antibiotics legislation in the CAP

Point i) on animal welfare and antibiotics was introduced to ensure that the future CAP Strategic Plans will adequately address these elements, starting from the draft SWOT analyses and assessment of needs submitted informally by the Member States to the European Commission in 2020.

Furthermore, the European Commission recommended establishing a number of horizontal services aimed at increasing transparency throughout the CAP Strategic Plans approval process, namely the public sharing of appropriate documents and criteria to assess and approve the CAP Strategic Plans. The first step was to incorporate the Commission recommendations as part of the 'structured dialogue' with the Member States.

In October 2020, the European Parliament and the Council reached an agreement on their respective positions, which gave them a mandate for the trilogue negotiations. In a factsheet published in November 2020, the Commission demonstrated that various aspects of these positions contradict the European Green Deal objectives or would undermine the efforts to develop and implement fairer, greener, and rural-proofed CAP Strategic Plans.

The following tables present a synthetic analysis of whether and how the positions adopted by the co-legislators have met or deviated from the conditions outlined by the Commission in May 2020 to align the CAP to the European Green Deal.

'No backsliding' principle

Table 1 displays the co-legislators positions vis-à-vis the 'no backsliding' principle (Article 92). This article provides important leverage to ensure a higher level of climate and environmental ambition in the future CAP Strategic Plans compared to the current CAP; not only in terms of allocated budget, but also the design of the intervention strategy, completeness of the monitoring system, etc.

Table 1: **EU co-legislators' adopted positions on the 'no backsliding' principle**

Condition set by the Commission in May 2020	Council of the European Agricultural Ministers	European Parliament
a. Respect a 'no backsliding' principle	**Maintained.** Article 92 of the CAP Strategic Plan Regulation has been retained without any changes	**Maintained.** Article 92 of the CAP Strategic Plan Regulation has been retained but its Paragraph 1 has been narrowed down. From considering the overall 'contribution' to the CAP Strategic Plans, the principle now refers to a simple comparison between past vs. future planned *'share of budget allocated'* on climate, environment and animal welfare.

The provision contained in Article 92 of the CAP Strategic Plan Regulation has been maintained by both co-legislators. However, **the Parliament has adopted an amendment to Paragraph 1 which reduces the scope of the principle to a simple budgetary comparison.** This can be problematic considering that the Parliament diluted the Pillar II environmental and climate spending by including payments for areas with natural constraints, and listed precision farming under eco-scheme practices.

Whatever agreement is found on Article 92 during the trilogue negotiations, the effectiveness of the 'no backsliding' principle will ultimately depend on how it is respected and implemented in practice during the approval phase, but also the ongoing performance reviews, mid-term evaluation, and amendments of the CAP Strategic Plans. In any case, it is an important principle to uphold. On the basis of 'no backsliding', the Commission can request amendments and leverage the enforcement of recommendations during the structured dialogue with the Member States on the CAP Strategic Plans. Similarly, this principle can be used by any third parties to call for actions and facilitate dispute resolutions.

To play a meaningful part in a transparent, systematic, and fair approach, this principle must be used by the Commission to assess and approve the 27 CAP Strategic Plans on a broader, common set of criteria. Both quantitative and qualitative criteria need to be considered to assess the level of ambition (SWOT, conditionality, governance system, etc.). Therefore, it is suggested that the interinstitutional negotiators work to strengthen this principle, going beyond a simple budgetary comparison. At the same time, the Commission can publish screening tools and guidance in advance to comply with more specific criteria linked to Article 92. Finally, respect for this principle should be monitored not only during the approval stage, but also during the implementation and mid-term review of the CAP Strategic Plans.

CAP green architecture

Table 2 provides an analysis of the co-legislators' positions on the various conditions to align the CAP green architecture to the European Green Deal, namely concerning three elements: the system of conditionality, eco-schemes, and environmental spending under Pillar II.

Table 2: **EU co-legislators' adopted positions on the CAP Green Architecture**

Conditions set by the Commission in May 2020	Council of the European Agricultural Ministers	European Parliament
b. Enhance the system of conditionality	Weakened	Weakened
c. Maintain the mandatory provision of eco-schemes in the CAP Strategic Plans	Maintained, but weakened with the possibility of a two-year learning phase (2023-2024) for eco-schemes. This allows the eco-scheme budget to be transferred to Pillar I direct income payments in case of low uptake.	Maintained, but the scope has been broadened to support animal welfare and farm economic performance. Similarly, the eco-scheme budget can be transferred to Pillar I direct income payments in case of low uptake.
d. Ring-fence a minimum of 30% for environmental spending under Pillar II	Maintained, but weakened by including payments for Areas with Natural Constrains.	Maintained, but weakened by including payments for Areas with Natural Constraints up to a maximum of 40%.

Regarding the system of conditionality, Guyomard et al., (2020) offered a detailed analysis of the positions of the co-legislators (Table 5.4, page 94). Overall, Guyomard et al.'s analysis shows that the co-legislators' positions on conditionality have:

- reduced the *scope*: e.g., changing 'protection' to 'maintenance' in GAEC 2 on peatland.
- restricted the *target area*: e.g., changing 'agricultural' to 'arable' land in GAEC 9 on landscape features.
- removed conditionalities like GAEC 10, which bans the ploughing of permanent grassland, and GAEC 5 on the use of the Farm Sustainability Tool for Nutrients.

Farm Sustainability Tool for Nutrients

On GAEC 5, this study argues that removing the Farm Sustainability Tool for Nutrients from conditionality is a lost public opportunity. If public authorities wanted to provide a free and simple tool to manage agricultural resource flows, to gather data and information at farm level, and link them with the Integrated Administration and Control System (IACS), the use of the Farm Sustainability Tool for Nutrients was a good step forward. Furthermore, the Parliament's position requires the use of this tool only by farmers receiving

Farm Advisory Services (FAS). Removing GAEC 5 and moving the Farm Sustainability Tool for Nutrients under FAS (Article 13) reduces the proportion of farmers who are required to use this tool.

Farm-level data is nowadays increasingly captured, owned, and valorised by large private companies that are led by commercial interests. At the same time, public authorities continue to advocate for the provision of *independent* farm advisory services. To achieve this, policy makers need to create the necessary conditions on the ground. The Farm Sustainability Tool for Nutrients was also useful for the managing authorities, as a means to monitor progress towards targets that are difficult to assess due to a lack of up-to-date EU statistics (e.g. fertiliser or pesticide use).

On-the-spot checks

Concerning the control system for conditionality, the Parliament has adopted Amendment 174 to Article 70(1a) and Amendment 291 to Article 84(3a) of the Horizontal Regulation which increases the share of beneficiaries to be subject to on-the-spot checks each year from the current 1% to 5%. On the contrary, the Council maintained the rate of on-the-spot checks at only 1% despite the opportunities offered by the latest technological developments in the Copernicus Services or IACS (e.g. very high-resolution satellite image coverage). If a sufficient level of transparency and compliance is to be respected, it is important to maintain a strong negotiating mandate on the part of the Parliament in this respect.

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Under the so-called Simplified Control System, the Council's position (CSL position Page 88) excludes small farmers from on-the-spot checks, provided that their non-compliance could have no 'grave consequences'. This position is quite controversial, especially because of the lack of common definitions for "grave consequences" and "small farms", which are left up to the Member States (e.g. small can be based on economic dimension, surface area, livestock units, annual working units).

While small-scale and subsistence farmers are increasingly disappearing and deserve serious commitments from public policies in terms of complementary redistributive payments and structural development, this amendment assumes that their farming method or small scale justify all and any exemptions. However, such an assumption should consider the fact that small-scale farming can range from intensive to extensive practices. Secondly, the latest technological developments have offered many opportunities to reduce the "administrative burden" both in the application and audit procedures.

The Horizon 2020 New IACS Vision in Action" (NIVA) project, as well as many payment agencies across Europe, have invested in research and development to design digital solutions which reduce the costs and burden of administration and controls. Digitalisation in the field of agricultural e-governance can overcome these challenges, but it may also have negative side effects, such as the definitive loss of opportunities for peer learning, advise, and joint reflection between farm advisors and farmers in relation to enhanced conditionalities. As it stands, however, such opportunities are very poor already under the current CAP.

The European Court of Auditors should monitor the development of this amendment to exempt small-scale farmers, by starting to look at the definitions and methods to calculate 'grave consequences'. Similarly, the co-legislators and Commission can work together to reduce the administrative burden, as well as to close any loopholes in the control system that allow CAP supports to be delivered to farms of any size, potentially in breach of national or European laws.

Performance Monitoring and Evaluation Framework

A strong commitment from the Member States to ensure timely, accurate, and effective reporting of indicators to monitor and evaluate the CAP Strategic Plans was another condition to align the CAP reform with the Green Deal. Table 3 below shows a synthetic analysis of the co-legislators' positions in this respect.

The initial Performance Monitoring and Evaluation Framework (PMEF) proposal for the CAP post-2020 already presented numerous weaknesses and areas for improvement. Two years after the 2018 initial proposal, the Commission and co-legislators have still not agreed on important accountability elements, like the final indicator fiches for the common result indicators. Indicator fiches are important because they provide the necessary guidance for calculating indicators in a harmonised and comparable manner across the Member States. Ideally these fiches should be adopted and included in the legal text, although, most likely, they will be finalised only later and included in the Commission's delegated acts.

Meanwhile, the Council and European Parliament, in their positions, have undermined the larger framework of the PMEF, which included the reporting timing and requirements, as well as the policy mechanisms to steer the CAP towards its EU wide objectives. ARC2020 has produced an in-depth analysis of the European Parliament's position on the PMEF, highlighting main improvements and deteriorations brought about by the amendments voted in by the European Parliament.

The positions adopted by the co-legislators show that their biggest concern was to postpone the assessment of how the CAP Strategic Plans integrate the European Green Deal targets. Rather than including this assessment in the Member States' ex-ante evaluation (Article 125), or as criteria for the Commission's approval of the CAP Strategic Plans (e.g. Article 92), the co-legislators adopted positions to delay it. Furthermore, the Commission included this assessment as part of the new structured dialogue, although no legal bases exist to oblige the Member States to adopt the Commission's recommendations.

Table 3: **EU co-legislators' adopted positions on the Performance Monitoring and Evaluation Framework**

Condition set by the Commission in May 2020	Council of the European Agricultural Ministers	European Parliament
e. Improving the data collection requirements	PMEF generally weakened in many ways. See following amendments to the CAP Strategic Plans Regulation:	
	▪ Amendment to Article 3, which added the definition of 'forecasted values' to differentiate between indicators subject to bi-annual performance reviews (Annex XII), and indicators subject to annual monitoring (Annex I). ▪ Amendment to Article 7(1b), which reduces the number of result indicators to be reported for performance review from those in Annex I to those in Annex XII ▪ Amendment to Article 121(a), which increases flexibility for the Member States to delay (from annual to bi-annual) and deviate from planned targets (45% deviation in 2025 and 35% deviation in 2027, compared to the single 25% proposed by the Commission), and produce the action plan requested by the Commission to steer the CAP Strategic Plans.	▪ Amendment 662 to Article 115 (removing "annual" from performance reporting) ▪ Amendment 673, 674, 675, 676, 679, and 680 to Article 121 (removing "annual" from performance reviews and reports) ▪ Amendment 685 to Article 122 (removing "annual" from review meetings) ▪ Amendment 688 to Article 122 and Amendment 689 to Article 124 (removing performance bonus to reward good performance in relation to climate and environmental targets) ▪ Amendment 682 to Article 121 (requiring an action plan 'only when necessary' to tackle deviations from targets) ▪ Amendments 987 and 1335 to Article 127 (postponing assessments of how the CAP Strategic Plans integrate with the European Green Deal)

Among the various amendments which undermine the effectiveness of the new PMEF, the Council has created a new definition of 'forecast values' in Article 3 precisely to reduce the number of result indicators subject to bi-annual performance reviews. By creating an elusive list of so-called 'monitoring' indicators, the Council's negotiating position is to delay performance reviews from annual to bi-annual (this was agreed by the Parliament too), and also to reduce the number of indicators subject to bi-annual performance reviews. Instead of the initial list of 38 indicators proposed by the Commission in Annex I, the Council wants to cover a minimum of 12 indicators, as listed in Annex XII to the CAP Strategic Plans Regulation.

The rationale behind the Council and Parliament's positions on data collection requirements is precisely the opposite of the Commission's initial proposal – and the recommendations of EU research and development in digital technologies, including those of the European Court of Auditors. Instead of moving public administrations towards a modernised CAP delivery model in terms of faster, larger, more accurate and accessible data collection and reporting systems, the EU co-legislators have adopted positions which delay the reporting timeline (i.e. going to bi-annual reporting instead of the annual reporting currently in place for rural development programmes), drastically reduce the number of result indicators to be reported, and weaken the performance mechanisms (e.g. more flexibility on submitting an action plan in the event that a Member State deviates from planned milestones and targets, and removal of the performance bonus).

Data collection

With regard to accountability, positive news comes via amendment 1340 to Article 129, in which the European Parliament demands that the Member States improve the quality and frequency of data collection for key target indicators relevant for the European Green Deal, corresponding to:

- Impact Indicator 10: GHG emissions from agriculture
- Impact Indicator 15: GNB on agricultural land
- Impact Indicator 18: Farmland Bird Index
- Impact Indicator 19: Protected Species and Habitats
- Impact Indicator 20: Landscape features
- Impact Indicator 26: Antibiotic use
- Impact Indicator 27: Pesticides
- Impact Indicator 32: Agricultural area under organic farming

Another positive amendment, which ensures the definition of baseline values and stability in the indicators, was adopted by the Council by including context indicators in Annex I to the CAP Strategic Plan Regulation. Furthermore, in Article 7, the Council introduced the possibility for the Member States to report also "additional" CAP result indicators on a voluntary basis. These additional indicators are to be specifically monitored and assessed in the national CAP Strategic Plans. This amendment might encourage the Member States, and their regional authorities, to go beyond the minimum list of indicators and reporting requirements established in the legislation.

Finally, the position of the Parliament to include regional governance aspects (e.g. regional authorities, monitoring committees, regional SWOTs, regional interventions) is a step in the right direction to maintain and strengthen a decentralised administrative and accountability capacity in regionalised Member States like Belgium, Italy, Germany, Spain, France and Portugal.

Position of farmers in the food supply chain

Concerning the position of farmers in the food value chain, the conditions to align the CAP to the European Green Deal were minimal, or at least not clearly defined. The Commission asked to retain sectoral interventions; the co-legislators have expressed no intent to remove them. Since the Commission's request was imprecise, it is difficult to analyse in detail the co-legislators' positions. However, Table 4 shows interesting findings.

Table 4: **EU co-legislators' adopted positions on a better position of farmers in the food supply chain**

Condition set by the Commission in May 2020	Council of the European Agricultural Ministers	European Parliament
f. Specific provisions to improve the position of farmers in the food supply chain	**Maintained,** although the amendments to the articles of the CAP Strategic Plan Regulation related to sectoral interventions have strived for greater flexibility for the Member States, rather than substantially improving the common provisions.	**Maintained.** Some positive amendments were made to Article 41(a) empowering the Commission to oversight distortion of competition in the internal market, and Article 42(1b) to support short food supply chains, but only in the Fruit and Vegetable Sector.

On the position of farmers in the food supply chain, the analysis between the CAP and Green Deal (Page 18) published by the Commission in May 2020 did not indicate what kind of actions were specifically needed by the co-legislators. Only some broad references were made to the reform of the Common Market Organisation and the recent Directive (EU) 2019/633 on Unfair Trading Practices. It also highlighted the role of "cooperation" within "producer organisations" and "associations of producer organisations", but left this statement open to the single Member States' interpretation.

Sectoral interventions supporting a wider range of agricultural products are a novelty in the CAP Strategic Plan Regulation, and were previously included in the Regulation (EU) 1308/2013 on the Common Market Organisation. The EU co-legislators are aware that moving the rules from one single CMO to 27 National CAP Strategic Plans needs some careful oversight from the Commission as different types of producer organisations exist across the Member States, and their nature or functioning can lead to market distortions. The main differences between producer organisations relate to their legal statue, size, geographical scope, sectors, possibility to include external shareholders and investors, outsourcing, etc., as outlined in this study (Bijman & Hanisch, 2012).

There are more than 42,000 farmers' cooperations based on a legal entity in the EU (European Commission, 2019). As of mid-2017, only 8.35% (n=3,505) of these were classified as producer organisations or associations of producer organisations.

Arcadia International E.E.I.G. (2019) published a study showing that various legal forms of producer organisations were supported in the current CAP, and only 50% of these were agricultural cooperatives which met the basic cooperative principles defined by Dunn (1988), namely:

1. **Ownership:** Farmers and other members own the cooperative and its means
2. **Control:** Farmers and other members manage and exercise control (directly or indirectly) over the cooperative
3. **Benefit:** Net income of the cooperative is distributed to the farmers and other members.

Especially the first and third points are essential to ensure that farmers receiving CAP support through sectoral interventions are the primary beneficiaries and can ultimately improve their long-term position in the supply chain.

Therefore, an important question is: what kind of producer organisation will the post-2022 CAP prioritise? In other words, can the CAP Strategic Plans better target this support towards those types of producer organisations that improve the position of farmers in the supply chain, especially those which promote the broader role of food and farming in sustainability?

The official EU criteria to recognise producer organisations, or their associations at national and transnational level, are defined in Article 152 to 154 of the Regulation (EU) 1308/2013 on the Common Market Organisation. These have been maintained by both co-legislators. However, none of these criteria ensure that CAP support is targeted specifically towards producer organisations whose legal status allows farmers and other members to 1) *own* the producer organisation (and its capital, infrastructure, commercial rights), or at least have 3) equal rights to a share of the net income, among other benefits.

Instead, these criteria are limited to 2) management aspects of producer organisations. This potentially allows for supports for producer organisations which – although farmers are members and can exercise control to various extents – still operate according to a business as usual model. While this can be beneficial to the members in the short term (e.g. better bargaining powers, access to market and knowledge, reduced transaction costs, etc.), it can also benefit producer organisations that act as intermediaries. However, if public supports are to improve farmers' positions in the food supply chain over the long term, key factors to consider are fair distribution of net profits and farmer ownership of the means of agricultural marketing and cooperation.

Recommendation: The elusive criteria to recognise producer organisations, as set out in R1308/2013 on the CMO, must be reformed to prevent funding from going to big food corporations and commodity traders. In the spirit of the European Green Deal objectives, more conditions could be added at EU level to ensure that farmers, as well as more sustainable and regionalised food trade systems, are the ultimate winners of sectoral support. Further progress in this direction could be made by other CAP interventions such as investments, cooperation, and business start-ups that support community farms and local food cooperatives.

Potential to introduce this reform at national level can be seen in the Council's amendment to Article 60a(2). With this amendment, the new CAP would grant more flexibility to the Member States in defining the criteria for recognising producer organisations, or associations thereof. On one hand, this provides room for the Member States to tailor the sectoral supports in the national CAP Strategic Plans more towards a specific type of producer organisation, such as agricultural cooperatives or other legal forms of cooperation that promote a fair and sustainable food supply chain. On the other hand, it may present a risk of maintaining the status quo or even exacerbating the market power of unbalanced and unfair food chains within and across the Member States.

Additional amendments to the 2018 Commission's initial proposal

Another condition for the co-legislators to align the CAP to the European Green Deal involved three additional amendments to the 2018 Commission's proposal. Table 5 shows how the co-legislators responded to these requests.

Table 5: **EU co-legislators' adopted positions on the three additional amendments requested by the Commission for the CAP Strategic Plans Regulation's proposal.**

Conditions set by the Commission in May 2020	Council of the European Agricultural Ministers	European Parliament
d. Minimum ring-fenced spending for eco-schemes	Introduced, but insufficiently. The Council earmarked at least 20% for eco-schemes but has largely lowered many basic requirements for conditionality to make space for less ambitious eco-schemes.	Introduced, but insufficiently. The Parliament earmarked at least 30% for eco-schemes but reduced room for the Member States to be more ambitious by earmarking 60% of direct support for basic income support.
e. Additional indications on the practices that could be supported under eco-schemes	Introduced, but the scope of eco-schemes has been diluted. It includes practices that support business as usual and sustainable intensification (e.g. precision farming). The Council increased flexibility to pay eco-schemes on the entire eligible area or only on the area covered by the eco-scheme practice.	Introduced, but the scope of eco-schemes has been diluted (includes also targeting animal welfare). Amendments allow practices that support business as usual and sustainable intensification (e.g. precision farming).
f. Integration of the animal welfare and antibiotics legislation in the CAP	No provisions concerning animal welfare or antimicrobial resistance in Article 96 (Assessment of needs), Article 103(2) (SWOT analyses), or Annex XI (EU legislation).	Introduced only a reference to animal welfare in Article 96 (Assessment of needs) but antimicrobial resistance has been left out. No amendments have been made to Article 103(2) (SWOT analyses), nor to Annex XI (EU legislation).

To better interpret the analysis on eco-schemes, it is important to remark that, in its initial proposal, the Commission did not specify any minimum percentage of direct payments to be ring-fenced for this intervention. In the factsheet published in November 2020, the Commission continued to demand a "sufficiently high budget for meaningful eco-schemes", without mentioning any concrete figures to make this assessment more accurate. More important than the figure itself is the actual content and purpose of eco-schemes. Specifically, the Commission asked the co-legislators to keep high the level of conditionality, instead of decreasing their requirements and make space for unambitious eco-schemes.

As regards the integration of the animal welfare and antibiotics legislation in the CAP, the Commission required the co-legislators to include specific legal provisions in the CAP Strategic Plans Regulation. However, this request went largely unfulfilled. This would have ensured that the Member States considered these issues in the first phases of the programming process (SWOT analysis and need assessment), as in the case of the legislation in Annex XI (which nonetheless is limited to climate and environmental legislation).

Summary: Is the CAP reform fit for the European Green Deal?

The analysis conducted here shows that the positions of the co-legislators have in many cases deviated from or not sufficiently aligned the CAP reform to the European Green Deal objectives. While in some cases the co-legislators have respected the conditions outlined by the Commission or filled important legal gaps in the 2018 Commission's initial proposal (e.g. introducing a minimum ring-fencing for eco-schemes, or adding social aspects to conditionality), overall, **the conditions outlined in May 2020 by the Commission to integrate the CAP to the Green Deal have not been fulfilled or adequately addressed**.

This confirms the conclusions of previous analyses which demonstrated that the 2018 initial CAP proposal was already inadequate to meet the European Green Deal objectives (Guyomard et al., 2020). Among the many deviations between the CAP reform and the European Green Deal, **the most important elements that need to be rectified during the trilogue negotiations relate to**:

- **The 'no backsliding' principle**, its clarity and how it will be enforced during the approval and implementation of the CAP Strategic Plans, including more transparency in the structured dialogue and specific criteria related to the integration of European Green Deal.
- **The CAP Green Architecture**, namely the enhanced level of ambition in the basic requirements of conditionality, the misleading indications and poor earmarking for eco-schemes, and the dilution of Pillar II environmental and climate spending with payments without clear environmental conditions (e.g. animal welfare, payments for areas with natural constraints).
- **The data collection requirements,** namely the weakening of the PMEF in terms of number of indicators, timing of reporting, and corrective mechanisms.
- **The provisions to ensure a better position of farmers in the supply chain,** namely in relation to the criteria to recognise producer organisations under Pillar I sectoral types of interventions, as well as the better targeting of rural development interventions (e.g. investments in digital food markets owned by farmers, cooperation, start-up businesses).
- **The lack of integration of the legislation on animal welfare and antibiotics,** to ensure that these aspects are tackled in the preparatory, design, and implementation phases of the plans.

In the final rounds of the CAP reform, it is also important that the two co-legislators and the Commission look beyond the European Green Deal. Considering the weaknesses presented at the beginning of this chapter, the European Green Deal cannot be the only yardstick to assess the extent and quality of this reform at EU level. A policy analysis of the CAP reform in relation to the broader socio-ecological and economic challenges facing agriculture, rural, and forestry areas would bring more insights from which to draw policy conclusions and recommendations.

Reforming scenarios for a post-2022 CAP

There is large scope for the Commission and co-legislators to explore multiple policy scenarios for an ambitious CAP reform post-2022.

With an interinstitutional agreement now within reach on transitional provisions for the current CAP and Rural Development, the 2014-2020 rules will continue to apply until the end of 2022.

As things stand, the CAP is by far not in line with the European Green Deal, as Chapter 2 shows. Moreover, the co-legislators' current positions promise few – if any – of the positive reforms needed for the post-2022 CAP.

This chapter outlines four main scenarios for reforming the CAP during and after the interinstitutional negotiations of the mandates agreed by the co-legislators in October 2020. Each scenario is elaborated and then analysed in terms of advantages and disadvantages.

Figure 1: **Four policy scenarios for the reform of the CAP post-2022**

Scenario A Reach a better agreement on CAP legislation during the interinstitutional negotiations	Scenario B Withdraw the 2018 Commission's initial CAP proposal and start a new legislative procedure for a future common food and farming policy
Scenario C Boost the ambition and steer the National CAP Strategic Plans along different institutional phases (design, submission and approval, performance reviews and amendments)	Scenario D Foster the uptake and exchange of good practices during the design and implementation of CAP Strategic Plans through the future CAP Network and EU research programmes

All scenarios are legitimate and legally possible. Time is an important variable and will affect their feasibility or relevance. Indeed, the German Presidency of the Council of the European Agricultural Ministers tried to reach a quick agreement by the end of 2020, which would have enshrined important elements regarding the future CAP green architecture. Before the beginning of the Portuguese Presidency, the German Presidency systematically tried to water down conditionality to make space for unambitious eco-schemes. During these interinstitutional negotiations, the level of transparency was as poor as the reflections and consultations undertaken among all negotiating parties.

Each scenario, or a combination of them should be appraised in the broader context, including the two-year transitional provisions; the impact assessments already conducted by the Commission in its initial proposal outlined in 2018; the commitments pledged in the European Green Deal; the global socio-economic crisis and the opportunity offered by the COVID-19 pandemic to rethink food policies and practices; as well as the deep-rooted challenges faced by current food, forestry and farming systems and by rural communities.

Scenario A: Reach a better agreement during the interinstitutional negotiations

In the spirit of sincere cooperation between the European Commission and the co-legislators, this scenario consists of re-aligning the Council and European Parliament's positions towards the Commission's initial proposal (i.e. trying to respect the proposal's *raison d' être)*, which contained provisions like a mandatory redistribution of direct payments, an enhanced system of conditionality, and more. Moreover, it entails several substantial amendments to the positions agreed by the co-legislators in October 2020. The Commission's role during the trilogue negotiations will be essential in three ways:

Amend the 2018 initial CAP proposal in line with the Green Deal Objectives.

In this role, the Commission could work together with the co-legislators to amend the CAP Strategic Plan Regulation as follows:

- Include the European Green Deal objectives and targets in the CAP Specific Objectives (Article 6), as well as the rules on conditionality (Annex III).
- Add to the ex-ante evaluation (Article 125(3)) a specific focus on integration with the European Green Deal.
- Integrate animal welfare and antibiotics legislation, either by extending Annex XI or creating a new annex.
- Secure a minimum 30% ring-fenced budget from Pillar I direct payments to eco-schemes, specifically in the minimum and maximum financial allocations (Article 86).
- Include more provisions to integrate the rural development interventions with the Common Provision Regulation 2021 – 2027 for the Cohesion Policy, especially in relation to the funds that will increase the digital connectivity coverage and socio-economic infrastructure in rural areas.

Furthermore, regarding the position of farmers in the food supply chain, the Common Market Organisation Regulation could be amended by adding specific provisions which favour farmers and farmer-community cooperation, rather than agricultural traders and large corporations. This can be done in many ways, for instance by including provisions that refer to the Directive (EU) 2019/633 on Unfair Trading Practices, by requiring an impact assessment when Member States form transnational interbranch organisations within the EU and beyond, or by revising the criteria to recognise producer organisations and associations of producer organisations, and to better tailor sectoral interventions to prioritise agricultural cooperatives, shorter food supply chains, community-supported and farmer-consumer food cooperatives, as well as public procurement qualifications.

Convince the co-legislators to re-align their adopted positions which substantially deviate from the original CAP proposal and the European Green Deal.

In this role, the Commission could explain the risks of these positions, and the opportunities ahead for re-aligning the CAP to its original proposal and to the European Green Deal. The Commission and co-legislators can work together to improve the CAP Strategic Plans Regulation, particularly to:

- Enhance the rules on conditionality (Annex III), making sure that they apply to all farmers and agricultural land, and their scope is not weakened by overly broad definitions (e.g. peatland, permanent grassland).
- Maintain the mandatory nature of complementary redistributive payments based on degressivity and/or capping.
- Remove all loopholes that could open up eco-schemes to a Pandora's box of practices (e.g. precision farming, which can be funded under farm advisory services, or installation of digital technologies), or could allow eco-scheme allocations to be re-transferred to Pillar I basic income support for sustainability.
- Exclude Payments for Areas with Natural Constraints from Pillar II environmental spending (Article 86).
- Maintain point b) 'installation of young farmers' in Article 86(4) which allocates the budget for young farmers (Annex X). This was removed by EP amendment 1134 to Article 86(4) to concentrate Annex X only on complementary income support (Article 27).
- Ensure that at least 15% of Pillar I funds can be transferred to Pillar II (Article 90).

- Maintain annual instead of bi-annual performance reviews and meetings (Articles 115, 121, and 122).
- Include all result indicators listed in Annex I in target and milestones settings, as well as in annual performance reviews.

Hold the co-legislators accountable in upholding the positive amendments reached in October 2020.

In this respect, the Commission could work together with the co-legislators, for instance to defend:

- The European Parliament's position which increases from 1% to 5% the share of farmers subject to a control system[1]. This includes also clarifying which small farmers can be exempted from controls and why, while also strengthening the controls and monitoring of agricultural inputs not only at farm level, but especially at the source level (i.e. pesticide and fertiliser sales, water abstraction, fossil-fuel sales for agriculture).
- The positions of both co-legislators which de-centralise the powers and responsibilities to regional and local authorities in the new delivery model. Via a number of amendments, the Parliament established regional managing authorities, regional monitoring committees, regional SWOTs and assessment of needs, and regional rural development interventions.
- The inclusion of paludiculture and agro-forestry in the definition of agricultural activity (Article 4 of the CAP Strategic Plans Regulation), as agreed by both co-legislators.
- The option for Member States to report on 'additional' indicators beyond those included in Annex I, as voted by the Council in Article 7 of the CAP Strategic Plans Regulation.
- The improvements in the frequency and quality of data collection and reporting of impact indicators which are relevant to assessing progress towards the European Green Deal, as voted by the Parliament in Article 129 of the CAP Strategic Plans Regulation.

This scenario would allow for the necessary reforms in the final institutional rounds of these ordinary legislative procedures, instead of going back to start a more ambitious proposal.

By demonstrating that the co-legislators respect the duty of sincere cooperation with the Commission, and truly embrace the commitment to reform the CAP, this scenario also gives one last opportunity to show that the basic rationale of the CAP, as defined in the Treaty of Rome, can still accommodate policies and legislation that are up to addressing contemporary challenges related to public goods, ecology, climate change, and more.

On the other hand, the feasibility of this scenario is questionable. Despite the nice words, the first trilogue meetings showed a strong resistance towards cooperation and even worse attitudes towards increasing the levels of ambition. In these negotiations, an ambitious position of the Agriculture Commissioner Janusz Wojciechowski would be very important. Until now, he has been far from a game changer and could certainly do more to move this CAP away from the status quo. On the contrary, when Vice-President Franz Timmermans publicly considered a legitimate withdrawal of the initial CAP proposal to adapt it to the European Green Deal, he faced strong opposition from the established farming lobby, internal division in the Commission and DG AGRI, as well as strong reactions from the two co-legislators and mainstream national media.

Scenario B: Withdraw the 2018 Commission's initial proposal for the CAP

Since October 2020, civil society organisations, scientists, and policy makers have carefully scrutinised the positions of the co-legislators and expressed deep disappointment. Seven more years continuing with a broken CAP is a high price to pay for future generations, regarding climate collapse, rural depopulation, and further depletion of natural resources. Various organisations and citizen movements have called on the Commission to withdraw its initial proposal. Many

1 See Amendment 174 to Article 70(1a) and Amendment 291 to Article 84(3a) of the Horizontal Regulation

photo: iStock.com / JackF

policy, political, and legal arguments would justify the withdrawal of this CAP reform.

It is a legal right of the European Commission to take such a decision. However, this would imply a strong political stand in relation to its own proposal submitted in 2018. So far, neither the Commissioner Wojciechowski nor Commission President Ursula von der Leyen have shown signs of moving in this direction. Besides political concerns, this decision is also a matter of powers and vested interests, as strong lobby groups benefiting from the current system are opposing any major change.

Withdrawal of the initial legislative CAP reform proposals would require a recognition of the urgency of the challenges as recognised by the Commission itself and expressed in the European Green Deal, the Biodiversity and Farm to Fork strategies, and many other scientifically substantiated considerations. Given this scientific and political evidence, and the time still available to adjust the initial reform proposals accordingly, this scenario would strengthen the common framework for the work of competent authorities in the Member States when working on the national CAP Strategic Plans.

Alternatives have already been explored at EU and national level, including a transition from a Common Agricultural Policy to a **Common Food Policy.** Trade, labour, and market matters should also be better regulated in the field of agricultural inputs, production, food processing and marketing, renewable energy, forestry, and negative externalities within and beyond the EU. However, a transition to a Common Food Policy would reconfigure the political arena, which is currently dominated by mainstream farmers' unions and large food industries that set the terms for all farmers, farming communities, and consumers. Moreover, this transition would require a parallel reform of the CAP rationale, as enshrined in Articles 38 to 44 of the Treaty on the Functioning of the European Union. So far, Member States have not shown any interest in taking this important step to adjust CAP objectives to the reality of the challenges farmers and society face today.

At EU level, the Farm to Fork strategy was a concrete example of a food policy approach, which aimed to create synergies between agricultural, climate, food processing, and food waste interventions. At the national level, some Member States have started working towards national food policies, although these experiences cannot compare to a more than 60-year-old

CAP which receives large shares of the EU budget. Some examples are the considerations for a 'Politik für nachhaltigere Ernährung' in Germany and the Food Wise 2025 and Agri-Food Strategy to 2030 in Ireland. To design and implement effective Farm to Fork policies, besides objectives, interventions and resources, a new governance and delivery mechanism needs to be built.

When considering an alternative to this CAP, another pertinent question is whether the "common" policies of the European Commission and European Union now defend anything more than established lobby interests. A process of re-nationalisation is underway in the CAP, especially considering that the rules for a Common Market Organisation have been drastically dismantled or delegated to the national CAP Strategic Plans. With the Member States striving for more flexibility in basic farm income supports, it is questionable whether the European Commission still defends common policies based on a very loose common framework. As shown in the co-legislators' positions on CAP, the EU institutions can even add provisions to prevent Member States from being collectively more ambitious, for instance as agreed by the Parliament on the minimum 60% ring-fencing for basic income support, which limits the possibility to dedicate more resources to eco-schemes.

EU rural development policy could also benefit to some extent from withdrawing this CAP, and finally embark on a more territorial, integrated, and multifunctional policy framework, in synergy with a wider cohesion policy.

While farmers are important custodians of the land and agriculture is a vital sector for rural areas, a new vision for rural policy means to balance the agricultural productivity agenda pushed in October 2020 through the Parliament's adopted positions on Pillar II, with the other policies and interventions affecting the attractiveness and development of rural areas (e.g. broadband and mobility infrastructure, services, digital hubs, trainings and skills, etc.).

Scenario C: Boost the ambition and steer the National CAP Strategic Plans

In this scenario, the co-legislators fail to reach an ambitious legislative framework at EU level, and fail to take advantage of the two-year transitional provisions to replace this CAP with a new proposal. This leaves some room for manoeuvre for the Commission, environmental authorities, regional authorities, civil society organisations and scientists. Can they steer the national CAP Strategic Plans towards higher levels of ambition, in keeping with the institutional timeline of the CAP Strategic Plans Regulation? Figure 2 presents an overview of possibilities to steer the national plans towards the needed reforms and the European Green Deal, although many of these options will depend on the final provisions to be agreed by the co-legislators at EU level.

Figure 2: **Steering the National CAP Strategic Plans through the institutional phases**

1. Design phase

- Clarity and incorporation of recommendations sent from the Commission to the Member States
- MS's involvement of a wide range of stakeholders and scientists, including the Strategic Environmental Assessment experts at early designing phase.
- Clear and timely delegation of powers and responsibilities to regional authorities to design and monitor interventions (for regionalised countries).
- CAP networks supporting exchange of practices, interventions labs, capacity building.

2. Submission and approval phase

- Public disclosure of the specific list of criteria to appraise and approve the CAP Strategic Plans, especially in relation to the 'no backsliding' principle and the Green Deal. The Commission's final assessments shall be made publicly available.
- The Parliament's Amendment 987 to Article 127(1a) of the CAP Strategic Plans Regulation requests the Member States to modify their plans if they show insufficient efforts towards the Green Deal. To be effective, this amendment should be applicable 'before' rather than 'after' the approval phase of the CAP Strategic Plans.

3. Performance reviews

- The Commission can send recommendations to revise the CAP Strategic Plans based on the **interim evaluation to be conducted by 2026,** i.e. three years after expected implementation of CAP Strategic Plans in 2023.
- Member States may submit an action plan to tackle any major devitations emerging from performance reviews.
- With Amendment 1138 to Article 139(a) of the CAP Strategic Plans Regulation, the Parliament established that the Commission can submit legislative proposals based on a **mid-term review by 30 June 2025.**

Although Figure 2 demonstrates various ways to steer the CAP Strategic Plans, the co-legislators are striving to delay or water down most of these options, especially those in the approval and performance review phases. In these efforts, the Member States are also reminding the Commission that the recommendations sent as part of the new structured dialogue are voluntary in nature and the final decisions on the CAP Strategic Plans will consider only legally binding regulations.

Scenario D: Foster the uptake and exchange of good practices

The Commission is contracting external assistance to support the design, adoption, implementation, monitoring and evaluation of the CAP Strategic Plans. As indicated in Table 6, this assistance will include a) the future CAP networks (replacing the current European Network for Rural Development and European Innovation Partnership – AGRI); and b) assessment support for approval of the CAP Strategic Plans. European and national CAP networks are established in accordance with Article 113 of the CAP Strategic Plans Regulation. External assistance can play an important role in stimulating the ambitions of a wide range of actors, as well as in fostering the uptake and exchange of good practices which can shape some elements of the future CAP.

Table 6: **Commission's external services to support the analysis, design, and adoption of the CAP Plans**

Title	Description	Financial Allocation	Links
Contract for Networking Activities in Support of the Common Agricultural Policy (CAP)	The subject matter of the contract is to provide the European Commission with technical assistance during the preparation and implementation of networking activities in support of the Common Agricultural Policy (CAP) for the 2021-2027 programming period.	127 800 000.00 EUR Duration of the contract: 108 months	Link
Assessment support of draft CAP Strategic Plans with respect to environmental requirements	This contract will aim to support the European Commission with the environment-related knowledge needed to engage in constructive conversation with the Member States during the preparation of their CAP strategic plans (CAP SP).	1 500 000.00 EUR Duration of the contract: 36 months	Link

In addition, the Commission – DG AGRI and the Member States can improve the CAP Strategic Plans by drawing resources and expertise from the research and innovation projects funded under the future Horizon Europe, which will support, for instance, projects like MEF4CAP fostering the adoption of new tools for monitoring and evaluating the CAP.

CAP networks could have enormous potential to foster learning and the transfer of good practices, especially if these are in the spirit of the Farm to Fork and Biodiversity strategies. They offer the possibility to translate legislation into tangible practices and experiences, to create a forum that incentivises dialogue and mutual learning from good and bad practices, and to collect and analyse information that inspires practitioners and policy making.

Despite their potential, however, CAP networks may be too weak to overcome **structural barriers** at regional or national level. Good practices are non-binding by nature. Addressing the tough reality and disparities on the ground, however, will require solid social infrastructure: active institutions, collective arrangements, technologies and skills, and flexible procedures for assembling and disassembling these good practices. To give some concrete examples:

- *Sensitive, data-driven, accurate counterfactual methodologies for environmental impact assessments,* as promoted by the current Evaluation Helpdesk of the European Network for Rural Development, could not be widely implemented without a set of precise legal requirements or stable indicator fiches produced by the Commission. Very often, the quality of evaluations carried out by the Member

States suffers from structural barriers such as inadequate data systems, contractual arrangements with the evaluators, etc. Better distribution of the Commission's resources for technical assistance, as well as greater input from experts, are needed to reduce disparities and facilitate Managing Authorities in building a strong data system and evaluation capacity at regional or national level.
- *Ambitious and collective eco-schemes or results-based environmental payments,* such as those explored by the European Innovation Partnership for Agricultural Productivity and Sustainability, cannot be widely adopted in the new CAP Strategic Plans if there is little political will from authorities to translate research into new or better practices. New ways of managing public resources need adequate investments for facilitating collective actions and building digital capacity and social capital at regional, community, or landscape level.
- *An integrated, multi-sector, territorial long-term vision for rural areas,* such as the one being prepared and promoted by the Contact Point of the European Network for Rural Development cannot be seriously implemented if the EU co-legislators are not creating an enabling policy framework now, during the ongoing negotiations of the CAP reform. Contrary to what networks might advocate for, the EU co-legislators, with their adopted positions, have voted for provisions that bend rural policy to the primary interests of the agricultural sector, instead of integrating it into the wider European cohesion and territorial policies.

It is important to note that the CAP networks supported by the Commission are not the solution per se. These networks would be tied to the issues underpinning the CAP reform. Moreover, they are not the only networks available to lead a fair transition in food, farming, forestry and rural areas towards more sustainable systems. Furthermore, merging the European Rural Networks into a single CAP network carries the risk that agricultural lobby interests will prevail due to the large number of mainstream agricultural lobby representatives in future CAP merged networks.

When rethinking the future CAP networks, the Commission should pay close attention to administrative **disparities** across and within the Member States, as well as to the power and institutional aspects of these networks, such the centralisation/de-centralisation of the units in the CAP network, the fair division of resources, and last but not least, the recognition, mutual support, and synergies of the Commission-led CAP networks with other forms of networks led by civil society organisations.

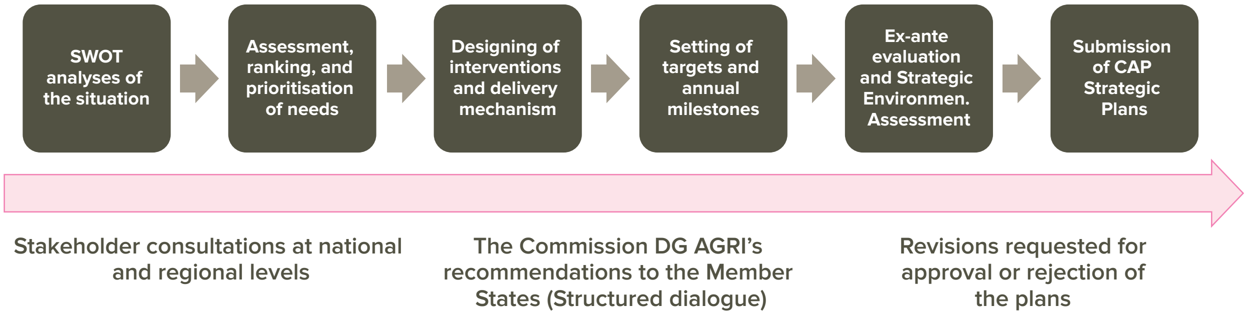
It is therefore essential not to overestimate the reach and capacity of this scenario to reform the CAP and align it to the European Green Deal. On the contrary, it is important to address the structural barriers which might emerge from:
- **A low level of ambition in the CAP legislation and national CAP Strategic Plans,** e.g. in terms of financial allocation, setting of targets, monitoring systems, etc.
- **The limited powers and responsibilities delegated to regional authorities** as part of the new delivery model.
- **The poor investments in building a stronger administrative and human capacity at different governance levels:** software, hardware, skills, team management.
- **The lack of political will and leadership in designing and implementing good** or adopting existing practices that can be used to optimise or overhaul methods.
- **The lack of a common vision, enthusiasm and motivation for farmers, civil society organisations, scientists and students, and rural business enterprises to stand up for a common goal** and strive for a CAP that protects the provision of public goods and discourages unsustainable practices.

Without a commitment to improve the structural limitations rooted in the EU legislation and in the Member States, the building and sharing of practices from/to the CAP networks, Joint Research Centres, and Horizon Europe's research projects may be hindered or generate marginal changes. Ultimately, investments into better practices could stand to benefit primarily those who design, own, and promote them.

National CAP Strategic Plans: from faith to action?

During the ordinary legislative procedures at EU level, 2020 was mainly a preparatory and vigilant year for the national authorities in charge of designing and submitting the 27 CAP Strategic Plans. Figure 3 presents an overview of the main preparatory steps to the new CAP Strategic Plans, including also those more cross cutting such as the ongoing stakeholder consultations at national and regional levels.

Figure 3: **Main preparatory steps to the approval of the National CAP Strategic Plans**



In 2020, most of the Member States completed the draft SWOT analyses around the CAP specific objectives and informally submitted them to the Commission. A few Member States completed the assessment of needs. Stakeholder consultations of the assessment of needs have been limited so far, especially in relation to the sound justifications for the prioritisation and ranking of needs as required in Article 96 of the CAP Strategic Plan Regulation.

Other Member States like Germany or Ireland have started designing CAP interventions (e.g. eco-schemes), although many national decisions are pending on EU level legislation (e.g. basic requirements for conditionality, budget ring-fencing). In the Czech Republic, a draft of the overall CAP Strategic Plan was largely completed, and various versions were discussed with stakeholders.

To varying extent and quality, the Member States have involved stakeholders at national and regional level. The following sections provide an overview of the experiences emerged from the preparatory steps made by the Member States in 2020.

More decentralisation or centralisation in the new CAP Strategic Plans delivery model?

A **new delivery model** was at the core of the Commission's initial proposal to simplify the CAP and increase subsidiarity vis-à-vis the Member States. So far, there is no evidence that this proposal will in fact bring simplification for the Managing Authorities and final beneficiaries, nor whether this simplification brings positive impacts for society as whole.

Old CAP delivery model

- 26 Direct Payments notifications per MS
- 118 Rural Development Programmes
- 65 Sectoral Strategies

New CAP delivery model

- 27 CAP Strategic Plans at National Level

At best, this new approach is deemed to streamline procedures and reduce the administrative burden on the Commission's side, but whether the new CAP Strategic Plans will genuinely strengthen the principle of subsidiarity at lower governance levels is still questionable.

Italy, Germany, France, Spain, Portugal and Belgium are among the EU countries where **regional authorities** have competence, or in some cases even constitutional rights over rural development, environmental, and agricultural matters. Moreover, there are marked disparities in the administrative capacity and allocated budget among their regions as is demonstrated by the long-term experience with rural development programmes.

Following the principles of this new delivery model (subsidiarity, no 'one-size-fits-all', etc.), national ministries could be expected to provide the tools and to mobilise regional and local actors in analysing the SWOTs and prioritising their territorial needs in a harmonised, facilitated, and coordinated manner. All this with a view to delegating the design, management, and reporting powers to those actors closer to where the needs and SWOTs are identified. Even before the COVID-19 restrictions, within the limits of digitalisation, national ministries could be expected to make efforts to engage regional authorities in both policy and governance working groups to **build de-centralised administrative capacity or establish effective coordination arrangements.** This was necessary especially to design innovative mechanisms in the CAP delivery, like the agro-environmental and climate management schemes tested and implemented in Ireland, which use a combination of payments based on both commitments and results.

In 2019, Italy presented an ambitious plan to prepare the national CAP Strategic Plans with a bottom-up approach, mainly referring to the involvement and contribution of regional authorities in carrying out SWOT analyses and assessment of needs at regional level. Guidelines were developed to help the regions in carrying out SWOT analysis around the nine CAP specific objectives. Looking at the experiences in 2020, some differences have emerged among the Italian regions: some are very proactive in getting ready for the new CAP; for others, their role and capacity to deliver for the new CAP is not yet evident. Some regions completed SWOT analyses or public consultations and published the outcomes on their own websites; for others, this process is unclear. In any case, a national coordination and collection of regional efforts (e.g. SWOT analyses, public consultations, assessment of needs, interventions) would ensure good governance and coherence across regions.

In 2019, the State-Region committee agreed in France to delegate only non-area based interventions to regional authorities (e.g. investments, cooperation, start-up businesses). By retaining all the area-based interventions from Pillar I and II at national level, it was argued that regional authorities will be alleviated of many tasks and spending commitments. The other assumption was that this will streamline administration and reporting, and make more for cost-effective distributing of public interventions like organic farming payments, eco-schemes, agri-environment-climate scheme payments, and payments for areas with natural constraints.

Recommendation: There are of course pros and cons in any arrangement. However, the Commission, the Member States, and the Regional Authorities should reflect on the concrete risks and side effects, including moving away from a true principle of subsidiarity. On the contrary, Member States should draw lessons from regional authorities that have already tailored area-based schemes to their specific situations, or created mechanisms to compensate farmers for their higher environmental commitments, as well as to boost community relationships, reflections, learning, and rewards on the basis of results, as was implemented with the scoring systems in Ireland and many parts of the EU.

Source: Twitter post from the EIP AGRI project Biodiversity Regeneration In a Dairying Environment

Finally, preparatory activities carried out in 2020 for the national CAP Strategic Plans should raise some concerns on the cohesion and coherence among regions in terms of responsibilities, governance capacity and arrangements. These aspects should be at the heart of a higher coordination role required of national ministries in the new CAP (this role has been largely performed by the Commission to date).

Eco-schemes in National CAP Strategic Plans

The positions on eco-schemes in the new CAP vary across the Member States on many points: whether to ring-fence them or not, the amount to earmark, and what objectives and practices shall be included. One thing unites all the Member States: the need for flexibility.

The preparatory activities for the CAP Strategic Plans carried out in 2020 reflect the positions held by the national ministries at Council levels. Italy has not initiated any thematic work on eco-schemes, coherently with the ex-Agriculture Minister Teresa Bellanova's total rejection of any mandatory ring-fencing. For the ex-Minister Bellanova, earmarking 20% was a very ambitious commitment. The Italian position might have changed after the resigning of the Minister in January 2021. Meanwhile her former party colleague, MEP Paolo De Castro, is pushing for agreement on eco-schemes that support a Pandora's box of activities, including precision farming and animal welfare.

France's position in the Council of the European Agricultural Ministers is more in favour of mandatory eco-schemes with a minimum ring-fencing of between 25% and 30% of the Pillar I budget allocated for direct payments. However, a public thematic working group involving experts and farmers to design eco-schemes has not yet commenced.

In Germany, various scientists wrote concrete proposals on the design of eco-schemes in the German CAP Strategic Plans (Uwe Latacz-Lohmann et al., 2019). Similarly, a joint platform led by BUND Friends of the Earth Germany and La Via Campesina has published and presented specifics for eco-schemes in the German CAP Strategic Plans.

In Ireland, stakeholders have been consulted to discuss eco-schemes in the new CAP Strategic Plans. Considering the context of Ireland compared to bigger and more regionalised countries, the Irish Department of Agriculture has initiated a participatory discussion on: 1) how to strike the optimum balance between conditionality and eco-schemes; 2) how to integrate actions and legislation beyond the CAP; 3) how to engage farmers in eco-schemes; and 4) which mechanisms can be used to calculate eco-scheme payments.

Apart from a few exceptional cases, in 2020 the Member States have made little or no progress in designing eco-schemes. Instead of setting up thematic working groups and forming their own national strategies towards the future farm to fork systems, agricultural ministries are waiting for more certainties – or alibis – from the EU co-legislator negotiations.

Assessment of needs: how will they be prioritised?

A crucial issue for the design of more targeted CAP Strategic Plans is how the Member States will move from SWOT analyses and assessment of needs, to interventions, targets and budget allocation. In this process, it is very easy to lose sight of evidence and jump to politically-based decisions, as is well demonstrated, for instance, by the coupled income support to tobacco, which has persisted through many CAP reforms.

In its position, the Council removed the word '**ranking'** from Article 96(e) and reduced the assessment of needs to a simple 'prioritisation'. Member States like Italy, France, Ireland are interpreting prioritisation as a simple 'clustering' exercise (i.e. common description of needs are grouped together), which ultimately has little strategic meaning on the decisions to take in the budget allocation or target settings, nor it helps to set the evidence-basis for the future impact evaluations.

It is important that needs are prioritised and ranked by using a range of analytical tools, such as bio-physical maps analysed in Geographic Information Systems (GIS). This recommendation is especially important for environmental needs, like increasing soil organic matter or decreasing soil erosion by water, which are often undermined by vested interests of input providers, machinery industry, and intensive farming promoters.

The Commission should continue to work with the Member States in building the capacity and increasing the widespread use of policy and analytical tools to prevent a prioritising of CAP supports in line with powerful lobbies or by simplistic surveys/ranking exercises which can lead to biased results. In the Rural Development Programmes 2014 – 2020, regional authorities gained experience with these geo-analytical tools. There is more that Member States and regions can do to show how interventions will target – or not – the areas with the highest needs (e.g. low level of soil organic matter) and thus increase the relevance and fairness of public spending.

New CAP Strategic Plans: an opportunity for more transparency and stakeholder inclusion?

The level of transparency and stakeholder inclusion in the design of the CAP Strategic Plans is very different across the Member States. Metta et al., (2020, pp 8 - 14) published a detailed analysis highlighting the major problems identified in early 2020 and calling on the Commission and National Authorities for more transparency at European and national level. In the Member States, more can be achieved by:

- setting up and updating official communication channels,
- publishing and updating roadmaps,
- conducting more transparent and effective consultation meetings,
- setting up clear written working procedures,
- promoting better stakeholder involvements.

Good practices can also be identified across the Member States. In France, more than 800,000 people participated in a public debate on the future of the CAP. Such discussions should be open beyond the official State-Region committees, and not dominated by powerful lobbies such as conventional farmers' unions, manufacturers of machinery, fertilisers or pesticides, food industries, etc. More is needed in terms of sharing and implementing these good practices across the EU. The Commission could start this process by recalling its legal powers as established in Article 94(1) of the CAP Strategic Plans Regulation (Procedural Requirement). Accordingly, the Commission could collect the evidence to assess transparency as criteria for the approval of the CAP Strategic Plans.

Case study: Germany

Environmental challenges for the agricultural sector in Germany

Support of Biodiversity: The protection of biodiversity is a wide-ranging and complex challenge for agriculture, which necessitates effective and targeted measures (Leopoldina 2020). The implementation of the Habitats Directive in Germany has been delayed, resulting in infringement proceedings by the EU Commission which are ongoing since 2015. Sufficient implementation of the Habitats Directive in agriculture is expected to cost a total of roughly €1.4 billion/year (LANA 2016).

Climate Change: The agricultural sector and land use contribute to about 12% of the total greenhouse gas (GHG) emissions in Germany. In absolute terms, greenhouse gas (GHG) emissions are falling over the long term. However, in the case of agriculture and land use, GHG emissions are decreasing more slowly than in the rest of the economy. As a result, the share of GHG emissions produced by the agricultural sector and land use has increased, from 10% in 1990 to 12% in 2018 (UBA 2019).

The protection and rewetting of wet grassland and peatlands could be one key measure to reverse this trend and improve the GHG balance of the agricultural sector (WBAE and WBFP 2016). In particular, former peatland areas (organic soils) used as arable land contribute to 25% of the agricultural GHG emissions in the EU-27, coming from only 2.5% of arable land (Tanneberger et al. 2020).

Nutrient surpluses: Since 1990, the nitrogen surplus has been reduced from 141 kg N/ha to 89 kg N/ha, mainly due to structural change and the reduction of animal numbers in East Germany, and only partly due to the improved efficiency of fertilisers. However, the target of 70 kg N/ha set in the sustainability strategy has not yet been achieved (BMEL 2020b).

Overview of the CAP 2014-2020 in Germany

Figure 4 below displays the CAP 2014-2020 distribution of funds across interventions in Germany.

Direct payments were the largest funding stream (€2.9 billion). About €330 million was used to fund redistributing measures (supports for smaller-scale farmers), while €85 million was spent on supports for young farmers and smallholders.

In Pillar II, €715 million was spent on Agri-Environmental and Climate Measures (AECM), which included a €225 million transfer from Pillar I. €240 million was used to fund payments for Areas of Natural Constraints (ANC); this is often framed as an environmental measure, but since 2014 it has been a de facto direct payment at the regional level. The transfer of direct payments to Pillar II was 4.5% for 2015-2018, and this figure increased to 6% for the period 2019-2020.

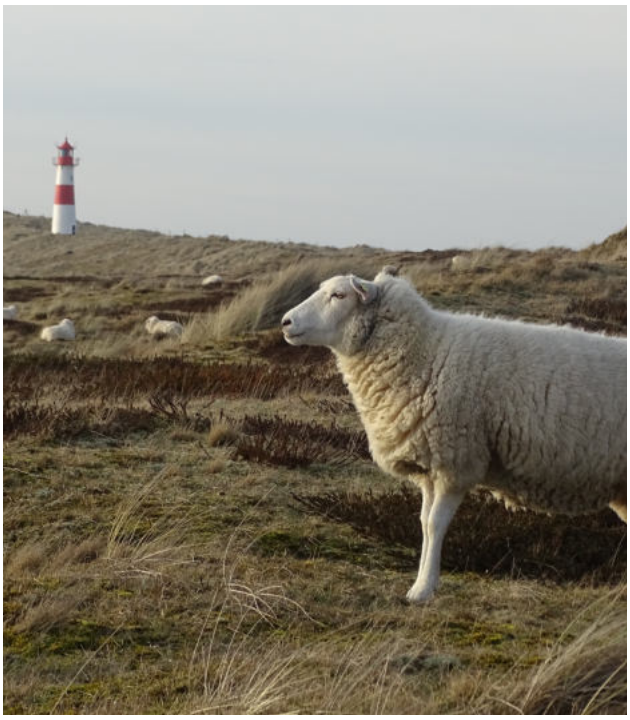
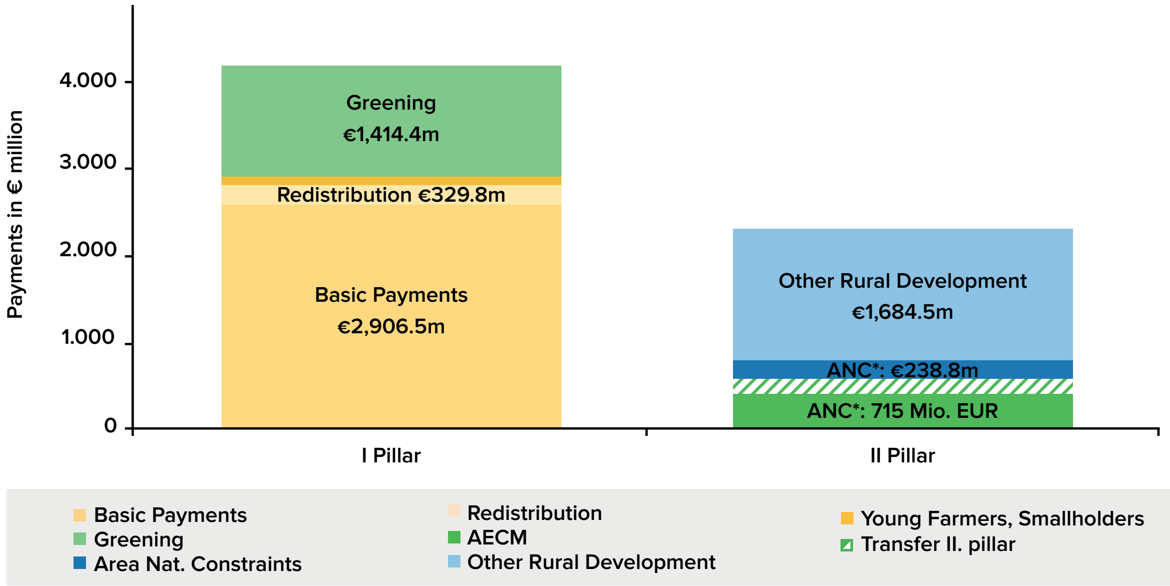


Figure 4: **Spending for the CAP instruments in Germany 2018**



Own calculations based on (BMEL 2019).
* Note that figures for Agri-Environmental and Climate Measures (AECM) and Areas of Natural Constraints (ANC) are average values for the funding period 2014-2020 (EU Commission 2016)

Prospects for the post-2022 CAP in Germany

The following section discusses the options to use the green architecture of the post-2022 CAP to address the environmental challenges in agriculture.

Conditionality

The main objective of the system of conditionality is to ensure that farmers comply with a minimum level of environmental regulations in order to benefit from CAP direct payments.

Conditionality consists of the Statutory Management Requirements (SMRs) and the Good Agricultural and Environmental Conditions (GAECs). These include for example regulations on the conversion of grassland (GAEC 1), protection of peatlands (GAEC 2), soil fertility and erosion (GAEC 8), biodiversity and non-productive areas (GAEC 9) and the implementation of Natura 2000 (GAEC 10).

As illustrated in the first chapter, most of the amendments voted by the European Parliament and Council have weakened the requirements in the GAECs.

After 2023, the Member States will be able to add their own environmental regulations at national level. The GAECs and SMRs lay out a common set of environmental rules at EU level, which is crucial to create a level playing field. If these requirements are too weak, Member States with greater environmental ambition may suffer from a competitive disadvantage. Therefore, a weak system of conditionality at EU level could lead to a race to the bottom in the Member States, and could create negative incentives for environmental regulations. Given the environmental challenges faced by Germany and the need to address them, the German Presidency should have worked to set out an effective system of conditionality for all Member States, in order to avoid competitive disadvantages for German farmers.

Nevertheless, conditionality alone will not resolve all environmental challenges. Conditionality should be accompanied by funding schemes to introduce more specific conditions and add incentives for farmers to implement these (for details see: Pe'er et al. 2020).

Eco-schemes

Eco-schemes (Article 28) are a voluntary environmental instrument in Pillar I, with a vague set of objectives and a number of diverging characteristics (see also Röder and Matthews 2021):

- Eco-schemes are obligatory for Member States, but **voluntary for farmers**.
- Payments for eco-schemes can take the form of a lump-sum **additional to direct payments or a measure-specific payment.**
- The payment can be made based on the c**ost incurred** or **income foregone** for a specific measure implemented, or alternatively as an **income-oriented top-up payment** to direct payments for the farm.
- Eco-schemes are planned and paid as **annual contracts**, where farmers can opt in and out every year. Still, it might be possible to add further regulatory details which make the eco-schemes a rolling obligation.
- The Member States shall provide a **list of practices** for eco-schemes to be offered to farmers. However, it is not clear which practices will be accepted by the Commission as eco-schemes when approving the CAP Strategic Plans. The Commission is expected to do one of the following:
  a. **publish a** white list of optional measures/practices,
  b. publish a black list excluding some measures, or
  c. simply ex-post control the performance and the ambition level of the Member States by using the set of indicators.

Uptake of eco-schemes can only commence upon approval of the new CAP Strategic Plans, which is expected in 2023, at the earliest. After that, Member States may be granted a two-year learning phase for eco-schemes (Council's position). Therefore, it is possible that eco-scheme practices may not be fine-tuned or corrected until 2025 or later.

Long-lasting measures are essential to mitigate GHG emissions from agriculture and to maintain biodiversity. For example, it takes over five years to establish multiannual flower strips, and some 15 to 20 years to rewet peatlands. Short-term eco-schemes are not fit for the purpose of targeted and effective measures.

Efficiency is a key criterion for the choice of measures and payment levels. One key lesson to learn from the greening approach applied between 2015-2020 is the lack of efficiency of spending. Depending on the method of calculation, between €800 and €1,700 was spent per hectare of Ecological Focus Area (EFA), which resulted in windfall payments for farmers, i.e. without any services in return (Lakner and Holst 2015).

Another question is, to what extent eco-schemes will create *additional* benefits. For instance, under greening, for the maintenance of grassland or crop diversification criteria, few farms had to change their practices (Pe'er et al. 2017). To avoid such inefficiencies, eco-schemes should not be paid as a top-up payment for all farmers (Ruiz 2019), but instead should reward farmers who deliver specific environmental services. Furthermore, the challenge of designing eco-scheme payments is to strike a balance between providing sufficient incentives to secure significant uptake among farmers, and avoiding large windfall payments for farmers.

A challenge lies in the fact that eco-schemes are in Pillar I, while the agri-environment and climate measures (AECM) are in Pillar II. Eco-schemes need to go beyond the SMR and GAECs (Article 28(5)b), and be different from AECM (Article 28(5)c). To avoid double funding, AECM payments need to have different requirements to eco-schemes. If eco-schemes are designed with very specific measures, it may be impossible to design specific and targeted measures in AECM that go beyond the level of ambition in Pillar I. Therefore, the eco-schemes should offer effective, but rather entry-level type of measures (light green), to leave room for manoeuvre for AECM (see also Lampkin et al. (2020)).

Another challenge is the danger of cannibalisation of AECM by eco-schemes: if payments for eco-schemes are designed with a large income component (i.e., going beyond the opportunity cost), farmers may decline to participate in AECM. Overall, high incentives in eco-schemes can lead to lower uptake in AECM. Payments for environmental instruments have to be designed proportionately in both pillars. If income components are used for eco-schemes, the same should be applied in AECM to avoid lower uptake in AECM induced by eco-schemes.

Challenges for designing eco-schemes under the federal system

In Germany, the federal structure adds to these problems, since the CAP Strategic Plan is created at national level. One main assumption applied by the working group between the federal government and the federal states was that a uniform payment at national level is necessary to deliver eco-scheme payments.

For **any payment level** for a given practice such as fallow land, uptake by farmers in very productive regions (North-Rhine Westphalia, Lower Saxony, Schleswig-Holstein, Bavaria) will be lower compared to uptake in less productive regions (Brandenburg and other parts of Eastern Germany; hilly regions in central Germany i.e. Thuringia, Saxony, Hesse, Rhineland-Palatinate and Baden-Württemberg). In the case of a uniform payment, a consequence would be the transfer of funds from productive to less productive federal states, which some federal states want to avoid for financial reasons. Yet if the payment is too low, the required uptake for spending 20% of Pillar I may not be achieved. In that case Member States would have to return any unused funds since budgetary rules do not allow unspent funds to be rolled over to the next year (Lampkin et al. 2020).

In order to avoid such transfers of funds, **a high payment** with a ring-fenced payment per farm could increase uptake in productive regions. For instance, in north-western Lower Saxony, due to intensive animal production, a payment of €1,500-2,000 per ha is deemed necessary to incentivise uptake of eco-schemes. By contrast, in Brandenburg a payment of a mere €200-300 per ha may be sufficient. Therefore, a high payment could lead to large windfall payments in low productive regions, thereby increasing inefficiency and leading to a waste of taxpayers' money. In such a scenario, the weaknesses of greening would remain unsolved by the eco-scheme approach.

Recommendations: A first conclusion is that the priorities of the CAP Strategic Plans should be clear from the very beginning as regards the measures to be established for productive and less productive regions. In some very competitive regions, it may be too expensive to incentivise uptake; excessively high payments may lead to a substantial waste of taxpayers' funds. Policy should be clear on whether it is feasible to compete with land rents of some €2,000 per ha. However, this question of priorities is a political issue to be addressed and also communicated by policy.

Furthermore, the payments for eco-schemes should be based on opportunity costs and only contain a small income element. And if such an income component is granted, it should also be applied in the AECM in Pillar II. Another solution may be to apply different levels of payments in different regions based on productivity and the potential opportunity costs of uptake. In the event that the transfer of funds between federal states is critical, the states could offset these disparities by modifying the distribution of funds within EAFRD among the federal states.

A points system to reward environmental services in CAP Pillar I

Application of a simple points system to determine the eco-scheme payment is under discussion. Farms would receive a payment proportional to the eco-score that they are awarded for different environmental measures and services. An elaborated points system has been developed by the German association for landscape management (DVL), which has also been tested at the farm level (Neumann, Dierking, and Taube 2017, Latacz-Lohmann and Breustedt 2020). This point system is feasible from an administrative perspective (Birkenstock and Röder 2020).

However, a points system to determine payments at farm level does not automatically solve all problems. If criteria are overly rigorous, farms in productive regions may be disinclined to participate in the points system. Lax criteria, meanwhile, would render the points system ineffective, yielding negligible environmental benefits and justifying windfall payments for farmers. In light of the tradeoffs, a points system is no guarantee of effective support of environmental measures within eco-schemes. A possible advantage of such a system could be the ability to easily adjust scoring over time and to differentiate the scoring across regions. Since a well-designed and targeted points system could address many of the challenges described here, much depends on the specific implementation and (again) on the financial incentives for farmers.

Supports for organic farming

Organic farming is established as an environmentally friendly farming system that provides a combination of different environmental services (Reganold and Wachter 2016). Therefore, it should become an integral part of the green architecture of the post-2022 CAP. One of the main challenges is to envisage appropriate and targeted supports for organic farming. The EU Commission's Biodiversity Strategy announced an increase in the share of organic farming:

"[...], at least 25% of the EU's agricultural land must be organically farmed by 2030. In addition to CAP measures, the Commission will put forward an Action Plan on organic farming, helping Member States stimulate both supply and demand of organic products." (EC 2020)

The 25% target for organic farming contains a number of challenges. Within the EU-27, a few Member States have high shares of organic farming (Austria, Estonia and Sweden), whereas the majority of countries have lower shares of organically farmed area. To achieve the Commission's target, some 27.6 m hectares of farmland across the EU will have to be converted to organic farming. Germany will need to up its share of organic farming by more than 15%, which will involve converting 2.5 million hectares of farmland to organic. In other large Member States like France, Hungary, Poland and Romania, the baseline share of organic farming is even lower. The challenge lies not only in convincing farmers to convert, but also in developing markets for organic produce, since incomes for organic farms mainly rely on higher commodity prices.

In 2019 Germany had approximately 1.62 m hectares of organically managed farmland, accounting for 9.3% of total farmland. Some 33,700 farms (12.6%) are producing according the EU organic regulation (BMEL 2020a). With revenues for organic food products of €11.97 billion in 2019 (BOELW 2020), the organic market is the second largest in the world after the USA (€40.5 billion in 2018). Nonetheless, in terms of per capita expenditure, Germany ranks seventh worldwide with €131 per person, behind countries such as Denmark (€312), Switzerland (€312) and Sweden (€230) (Willer, Schlatter, and Trávní 2020).

The German organic sector offers many opportunities for further development provided that appropriate measures are taken. The Biodiversity Strategy states that the European Commission will present an action plan for the EU organic sector. The German "Strategy for the Future of Organic Farming" could be a blueprint for such a strategy, since it lays out a roadmap to achieving a 20% share of organic farming by 2030 (BMEL 2017). Overall, the main challenge is to develop a growth strategy that takes into account market developments.

The application of eco-schemes for organic farming systems may present problems. Eco-schemes are an annual measure, whereas the conversion to organic farming is a long-term process for the whole farm. If eco-schemes were to be used to fund supports for organic farming, the long-term nature of the supports must be secured via additional requirements.

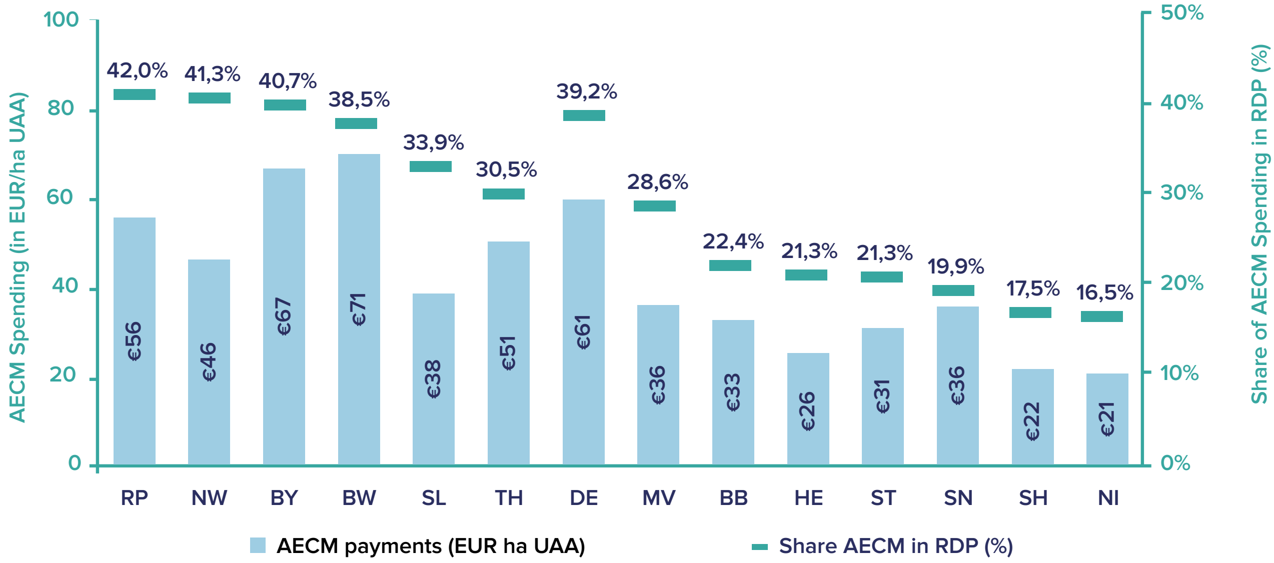
Another challenge is the proportionate design of eco-scheme payments, in order to avoid excessive supports for the conventional farming system. If eco-schemes are targeted towards conventional farms and contain substantial income components, overfunding may result. Excessive support of eco-schemes could also undermine any growth strategy for the organic sector (as described above):

1. Opening the other eco-schemes to organic farms could be one option; however, this may be technically impossible. If for example the absence of pesticides is a funding criterion, organic farms could receive double funding. Organic farms cannot receive support for reduced livestock density if this is already rewarded by the organic support in Pillar II.
2. Another, more challenging solution is to design payments for eco-schemes in proportion to one another, i.e., treat eco-schemes as simple entry-level AECM, design payments according to opportunity costs, and allow for combination organic farming (Lampkin et al. 2020).
3. A points system could be applied, but here again, the organic farming system should be eligible for such a system to avoid negative incentives for organic farming systems.

Agri-environment and climate measures (AECM)

In Germany, the agri-environment and climate measures (AECM) are configured by the federal states within the Rural Development Programmes (RDP), and co-funded by the national government. The share of RDP spending on AECM 2014-2020 varies among the federal states (Figure 5).

Figure 5: **Spending for Agri-Environmental and Climate Measures, organic farming and Natura 2000 in the Rural Development Programs (RDP) in the federal states of Germany 2014-2020 (in %)**



Source: Own calculations, based on factsheets for Rural Development EC 2016

Abbreviations: RP = Rhineland-Palatinate; NW = North-Rhine Westphalia; BY = Bavaria; BW = Baden-Württemberg; SL = Saarland; TH = Thuringia; DE = Germany; MV= Mecklenburg-West Pomerania; BB = Brandenburg+Berlin; HE = Hesse; ST = Saxony-Anhalt; SN = Saxony; SH = Schleswig-Holstein + Hamburg; NI = Lower Saxony+Bremen;

Figure 5 shows that the financial priorities within the Rural Development Programme deviated among the federal states. Although AECM spending partly reflects political priorities, it should also be noted that north-western federal states in Germany received less Pillar II funding overall, to offset their high levels of direct payments. The largest share of RDP spent on AECM was in Rhineland-Palatinate and North-Rhine Westphalia (more than 40%); the lowest shares were in Lower Saxony and Schleswig-Holstein (16.5% and 17.5% respectively). Some federal states such as Hesse, Bavaria and Hamburg used additional state funds to offer measures outside the RDP framework. If we relate absolute spending on AECM to the utilised agricultural area (UAA), then the southern states of Baden-Württemberg and Bavaria had the highest AECM spending per area.

Within the post-2020 CAP, specific and targeted AECM will be decisive in addressing the specific environmental challenges outlined at the beginning of this section. The share of effective and targeted measures will be of high importance. The literature shows that targeted, specific and complex AECM are especially effective for the provision of environmental services. This is especially true for biodiversity supports. Therefore, many studies recommend strengthening the implementation and financial resources for effective AECM within Pillar II (Armsworth et al. 2012, Batáry et al. 2015, Freese 2012, Lakner, Zinngrebe, and Koemle 2020). In the 2007-2013 funding period, the share of measures with high requirements (dark green measures) was low in Germany (Freese 2012). The share of effective biodiversity measures increased with the introduction of greening, which took over some rather resource-oriented measures like catch-crops or leguminous plants from AECM (Table 7):

Table 7: Agri-environmental and climate spending in the federal states of Germany

Indicator	Unit	BY	BW	BB	SN	NI	HE1
1. RDP Spending 2014-20	€ million	508.28	260.57	192.29	162.68	328.49	92.45
2. AECM Spending 2014-20	€ million	206.68	100.32	43.02	32.33	54.36	19.71
3. Share of AECM in RDP	%	40.7%	38.5%	22.4%	19.9%	16.5%	21.3%
4. Hectares AECM 2017[1]	1,000 ha	1,253	576	263	178	419	218
5. Share ha AECM to UAA	%	40.7%	40.5%	20.3%	19.9%	16.3%	28.5%
Effectiveness of AECM with respect to Biodiversity							
6. Share of effective AECM payments[2]	%	26.5%	40.6%	36.6%	47.3%	46.4%	16.3%
7. Share of effective AECM area[3]	%	11.6%	19.4%	51.6%	27.2%	24.8%	21.0%

Source: Own evaluation of the AECM and calculation. Based on data from the Federal Ministry for Food and Agriculture (BMEL) and the state Ministries for Agriculture.

1: Note that Hesse used some additional state funds to finance AECM, which are not part of the RDP. The total spending on AECM in Hesse is €38m per year in comparison to ca. €20m per year within the EU-financed RDP.

2: Share of effective AECM payments out of total AECM payments.

3: Share of effective AECM area out of total AECM area.

Abbreviations: BY = Bavaria; BW = Baden-Württemberg; BB = Brandenburg+Berlin; SN = Saxony; NI = Lower Saxony; HE = Hesse

The share of the area supported by AECM (rows 4 and 5) was highest in Bavaria (40.7%) and Baden-Württemberg (40.5%), followed by Hesse (28.5%). Lower shares per area were funded in Saxony (19.9%) and Lower Saxony (16.3%). The share of effective, dark green AECM (rows 6 and 7) also diverged, although it followed a different pattern. The spending for effective AECM was high in Saxony, Lower Saxony and Baden-Württemberg; the area of effective measures was highest in Brandenburg, Saxony, and Lower Saxony. This suggests that AECM implementation strategies diverge within the federal states: in some states, total spending on AECM was high, but other states achieved a high share of areas with effective measures which will support biodiversity and processes such as implementation of the Habitats Directive. It is recommended to increase the specific and effective measures within AECM.

Overall, the share of AECM spending should be increased in the upcoming Rural Development Programmes (RDP). In the next funding period, the European Agricultural Fund for Rural Development (EAFRD) will provide fewer resources than in the 2014-2020 MFF (Matthews 2020). Adding to this, the AECM co-funding requirement for Member States has been reduced from 35% to 20%. This reduced co-funding requirement might make AECM more attractive for the Member States, but on the other hand it will reduce the resources available.

The transfer from direct payments to AECM in Pillar II could increase the financial resources for more targeted AECM. The European Parliament's position allows for a transfer of 15% to Pillar II, the Council allows as much as 25%. In Germany, the transfer to Pillar II was recently increased to 6% in 2020. Maintaining a transfer of 6% would add about €275m per annum to AECM, whereas a transfer of 15%, for example, would make available some additional €685m for AECM. The transfer to Pillar II can significantly enhance the level of spending on AECM and thereby support the achievement of environmental objectives.

Conclusions and recommendations

The analysis presented in this study shows that the positions adopted by the co-legislators on CAP reform in many cases deviate from or contradict the European Green Deal objectives. In a handful of cases, the co-legislators have minimally respected the conditions outlined by the Commission in May 2020, or filled important legal gaps in the 2018 Commission's initial proposal (e.g. introducing a minimum ring-fencing for eco-schemes or adding social conditionality). Overall, integration between the CAP reform and the European Green Deal is poor or unrealised.

In this context, different reform scenarios are available during and after the trilogue negotiations. The most auspicious scenario would involve the co-legislators exercising the duty of sincere cooperation to reach a better agreement with the Commission. This means substantially improving the positions adopted in October 2020 on a number of points: CAP green architecture (conditionality, eco-schemes, environmental spending in Pillar II); data collection and reporting requirements; inclusion of the animal welfare and antibiotics legislation; provisions to ensure a better position of farmers in the food supply chain, and full respect of the 'no backsliding' principle.

Alternatively, the Commission could acknowledge the lack of integration between the CAP and its European Green Deal and finally withdraw its 2018 initial proposal. A strong political stand and unity would be needed by the Commission to put forward a new legislative proposal in the spirit of a long-term Common Food Policy that supports farmers while also tackling climate change and biodiversity decline. The transitional provisions that extend the existing CAP rules until 2022 work in favour of this scenario. Other factors that lend critical support for this scenario are the growing body of scientific evidence, experiences with food policies in the Member States, and citizens' calls for action.

Failing to achieve a better agreement in the trilogue negotiations, or to put forward a new legislative proposal, the National CAP Strategic Plans can still offer much potential to design more ambitious policies which not only accommodate the European Green Deal objectives, but substantially raise the environmental and socio-economic standards of CAP supports. There is room for each Member State to qualify and increase the redistribution of payments among farmers, to tailor sectoral interventions towards specific forms of producer organisations, to frame rural policy in terms of territorial cooperation and an integrated approach, and even to raise the standards of conditionality for farmers who receive CAP supports.

However, to grasp the full potential of the National CAP Strategic Plans, the Commission services need to work strategically from the design phases, with good cooperation from policy makers and experts in the Member States. As observed with the preliminary steps undertaken in 2020, especially by those countries with a regionalised system such as Germany, there are several political and technical challenges to be overcome.

Particular attention should be paid to building new delivery model arrangements which merge Pillars I and II in a single CAP Strategic Plan. As the German case study demonstrates, the designing of effective eco-schemes and the concrete actions to support organic farming will be very complex tasks which can strongly affect farmers' decisions and incomes over the short- and long-term. However, given that many decisions on the German federal law may pass early in 2021, there is a risk that the room to act on the CAP Strategic Plans at Länder level will be reduced, or improvements not taken into account in time.

As illustrated in the case study on Germany, for the implementation of the post-2020 CAP at national level, the financial resources and design of environmental instruments (conditionality, eco-schemes and agri-environment and climate measures) need a clear and comprehensive strategy to address the environmental challenges and increase the level of ambition secured. To achieve a common level playing field across the EU, **conditionalities** should contain a set of effective rules for all Member States beyond the positions of Council and Parliament. Eco-schemes currently have vague objectives and their short time-frame (annual payment) may compromise their effectiveness. When designing the new eco-schemes, it is important also to bear in mind their consistency with agri-environment and climate schemes supported under Pillar II. Solutions could include providing more clarity on combining eco-schemes and agri-environmental and climate schemes via entry-level eco-schemes, or points systems for farmers interested in applying for one or both interventions.

To avoid inefficiencies, eco-schemes should not be paid as lump-sum top-up payments for all farmers, but instead reward farmers who deliver specific environmental services. Furthermore, the challenge of designing payments for eco-schemes lies in striking a balance between creating payments with sufficient incentives to secure significant uptake among farmers, and avoiding windfall payments. Payments for environmental instruments have to be designed proportionately in both pillars. If income components are used for eco-schemes, the same should be applied in AECM to prevent lower uptake.

Within a federal system, uniform eco-schemes are complicated to establish. Still, the implementation of the post-2022 CAP should align with clear targets. Payments for eco-schemes should be based on opportunity costs. If an income component is granted, it should be applied to both eco-schemes and agri-environment and climate schemes. Policy makers could consider a differentiation of payments according to regional opportunity costs. If Pillar I funds are moving among federal states through different regional uptake patterns, the federal government could consider a redistribution of financial resources through Pillar II.

A well-designed and targeted **points system** could address many environmental challenges and enhance uptake among farmers, but much depends on the specific implementation and on financial incentives for farmers.

A holistic approach to organic farming supports needs special attention in order to achieve the targets set in the Biodiversity Strategy. The challenge lies not only in convincing farmers to convert, but also in developing organic markets, since organic farm incomes mainly rely on higher commodity prices. Policy should consider combining eco-schemes under Pillar I and organic farming support under Pillar II and adjust payment levels according to opportunity costs.

Effective and targeted agri-environmental and climate measures (AECM) will be decisive in addressing the specific environmental challenges. The share of AECM spending should be increased in the upcoming Rural Development Programmes (RDP); the transfer from Pillar I to AECM in Pillar II could increase these financial resources. More innovative measures (such as collective implementation and results-based measures) should be enhanced. Environmental farm advisory services and non-productive investments can support the sustainable transformation in agriculture.

To overcome these and many more challenges in designing and implementing ambitious CAP Strategic Plans, the future European and national CAP networks will play a pivotal role. Much is expected from the exchange of good practices and the practical support of CAP networks to the Commission and Managing Authorities on a number of critical questions and tasks. However, the future CAP networks are not the solution per se. Close attention should be paid to the governance of these networks and the balance between the agricultural, forestry and rural pillars. To be effective, national and European CAP networks are also expected to dive into the problems rather than merely sharing good practices. A good level of engagement will help to reduce disparities in administrative capacity between regional and national authorities across the EU, and to overcome the structural and institutional hurdles to a more sustainable, climate-friendly, and fairer post-2022 CAP.

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