

XXX European Congress of Agricultural Law
18-21 September 2019, Poznan (Poland)

Colloquium
'The reform of the CAP'

20 September 2019, 18.20 – 18.50

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Content and scope of the environmental component

As stated in my introductory remarks to this colloquium the environmental component of the CAP reform is in the public opinion and therefore in the general sphere of agricultural politics one of the most important reform issues of agriculture. At the beginning of my introduction to our discussion of the environmental component I would like to mention two rather far-reaching positions in the public debate.

One of these positions is to cut the existing link between agricultural subsidies and the protection of climate, environment, animal health and food safety. Instead of using the subsidies as a mean to strengthen the environmental and climate performance of agriculture, the regulatory framework should be reinforced. According to that idea, for all agricultural holdings general obligations to protect those goods ought to be introduced. As it is the case for industrial undertakings any agricultural holding would be required to comply with such a reinforced regulatory framework and bear the consequences of non-compliances found in form of penalties and administrative injunctions. This approach would de-connect the function of direct payments to stabilize farm income from the need for farming to respect a set of environmental and climate requirements.

Vice versa, another far-reaching position is to concentrate the agricultural subsidies solely on measures to protect public goods. The nature of the direct payments to provide general income support to agricultural holdings would vanish accordingly. Agricultural holdings which comply only with the ordinary legal obligations to protect climate, environment, animal health and food safety would not be receive direct payments. As a consequence, the financial means to reach a higher level of environmental protection would at least for part of the agricultural holdings increase.

Both far-reaching positions seem to have no chance to become reality in the ongoing reform process, which is based on an evolutionary concept adjusting and complementing the existing

environmental and climate components. However, they should be in our mind when we are discussing the reform proposals.

I have already outlined the proposed new system in my introductory remarks. The starting point of the environmental component is Article 5 subparagraph 1 litera b of the strategic-plans-regulation as one of the three general objectives of the regulation. It demands “to bolster environmental care and climate action and to contribute to the environmental- and climate-related objectives of the Union”. Based on that, Article 6 paragraph 1 lists relevant specific objectives. According to paragraph 1 litera d the CAP should “contribute to climate change mitigation and adaption, as well as sustainable energy”. According to litera e it should “foster sustainable development and efficient management of natural resources such as water, soil and air” and to litera f it should “contribute to the protection of biodiversity, enhance ecosystem services and preserve habitats and landscapes”. Litera h adds “bio-economy and sustainable forestry” and litera i “sustainable food” and “animal welfare”. In my view these objectives cover the whole range of the topics in question.

The environmental component consists of four elements: the conditionality, the eco schemes, the measures in the field of rural area support and the incentive system for good environmental and climate performance. Compared with the current system the first level is simplified. At the moment it contains the two elements Cross-Compliance and Greening. Whereas Cross-Compliance is obligatory for a range of CAP-measures and in principle for all farmers, Greening is part of the direct payments system, granted on top of the basic payment and subject to numerous exceptions. The complexity of the Greening, newly introduced in 2013, and its difficult demarcation from the other environment-connected elements raise quite some questions. For example, it is not clear if the Greening is simply a condition to receive the direct payments or forms a subsidy of its own, or even both.

Therefore, Member States have generally welcomed that Greening and Cross-Compliance are basically merged into one element, which is the new conditionality. According to Article 11 paragraph 1 the conditionality covers “statuary management requirements” and “good agricultural and environmental condition of land” in the three fields of “climate and the environment”, “public health, animal health and plant health” and “animal welfare”. Conditionality is applicable in the area of direct payments and parts of the rural area support. It applies in principle to all farmers. A breach of the requirements leads to “administrative penalties” as set out in the horizontal regulation.

This approach is actually worth being discussed because the decoupled basic payment is called “basic income support for sustainability”. That term contained the notion of reciprocity. But in reality breaches of the conditionality do not lead to the direct refusal of the basic in-

come support. Instead administrative penalties – in the words of recital 21 “proportionate, effective and dissuasive penalties” for “those farmers who do not comply with those requirements” – are imposed. The main difference between these two concepts is that a genuine condition to receive the subsidy would mean that the reason why the breach occurred is in principle of no interest. Only situations of force majeure and similar cases may lead to exculpation, whereas Article 85 paragraph 1 subparagraph 2 of the horizontal regulation stipulates that the breach is the result of an activity or an omission which can be directly linked to the beneficiary. Also, the amount of the penalty depends on whether the breach occurred by intent or by negligence.

Whereas at the first level, only one element will remain, on the second level, two elements will be established. The eco schemes in the first pillar would be compulsory for the Member States. Whether this is also the case for the environmental programs in the second pillar is not quite clear. Article 65 paragraph 1 uses the wording “may grant” regarding environmental and climate commitments, while the following Article 65 paragraph 2 speaks of “shall grant” in connection with “agri-environmental-climate commitments”. In any case, for farmers the participation in both elements will be facultative.

Regarding their content both elements are in principle parallel. To prevent a double subsidy the proposal states that Member States have the obligation to ensure that a certain commitment may only be supported within one of the two elements. The main difference is that the measures in the second pillar have to be co-financed by the Member States and usually run for several years whereas eco-schemes would be annual and subject to full EU-financing. At Council level, it is discussed whether the eco schemes should also be facultative for Member States.

The incentive system for good environmental and climate performance as the third level is not a separate support tool but intended to incentivize Member States to ensure good performance of the environmental elements of their strategic plans. According to Article 123 paragraph 2 the amount granted to a Member State consists of five percent of the EU means for rural development support in the year 2027. To activate it the performance of the Member State must exceed more than ninety percent of the target values of 2025 in the field of environmental and climate measures, contained in the strategic plan of the very Member State. The additional financial means can be used in 2027. That leaves only a very small window to spend it before the end of the multi-annual period, except for measures in the second pillar which may be financed up to three years after the end of the multi-annual period. Member States would have to notify in 2026 the appropriate amendments of their strategic plans. That practical difficulty and also the fear that Member States might choose more low-risk measures instead of innova-

tive tools in order to get the quite high bonus led to a broad refusal of the incentive system in the Council.

I tried to outline important basic points of the environmental component of the proposed new CAP. One could also look deeper into specific measures, but they are mainly in line with the current measures. Also, it should not be overlooked, that within the so called sectorial types of intervention – possible in principle for all agricultural sectors – the environmental objectives as set out in Article 6 are being taken into account. Consequently, the Member States have to include environmental measures in their sector programs, as it is already now the case for example in the fruit and vegetables sector. Hence, it could be argued, that in fact, five elements are contained in the proposals.

For our discussion I would like to suggest the following five topics, formulated as questions, which tackle main reform items:

First: Is it reasonable to embrace the proposed evolutionary concept, in other words, not to switch to one of the outlined more far-reaching positions? If yes, what is the right balance between basic income support and other CAP instruments on the one hand and the environmental component on the other hand?

Second: Is the notion “basic income support for sustainability” meaningful, although within the legal construction the direct connection to sustainability appears to be rather weak? Should therefore the connection be enforced, for example by creating a real condition for subsidization by the CAP?

Third: Is the content of the conditionality acceptable? In particular, should Greening be abolished and is the proposed scope of application (direct payments and parts of rural area support) suitable?

Fourth: Is it reasonable to establish on the second level two elements which in principle may have the same material content while being different as regards their conditions and scope of EU-financing? Or should the eco schemes and the measures in the field of rural area support be merged into one? And, should the second level elements be obligatory for Member States?

Fifth: Is the performance-related incentive system for Member States reasonable?

Because we have only rather limited time to discuss these questions I would like to open the discussion to all of them now. Therefore, please indicate in your statement, to which questions

you would like to contribute. Let`s just see, which of the aspects will become the focus of our discussion.

Thank you for your attention, and let us enter into a good discussion.