



Re-CAP: Breaking down the breakdown of the EU’s green farming measures

The last few months have been a rollercoaster ride for the EU’s farming subsidy programme, which has seen its green ambitions sacrificed on the altar of food security and politics. As this mandate comes to a close, ARC has put together a re-CAP for you with all the twists and turns in the Common Agricultural Policy over the past few years – and what’s next for the policy.

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Introduction

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Let's start at the very beginning

Where to start? Well, in the wise words of Julie Andrews in the Sound of Music – let's start at the very beginning, a very good place to start. So we'll start at the start of the previous CAP – [which we leaked to the general public in late 2017](#).

This reform promised to be greener and leaner than ever before, setting out nine specific economic, environmental and socio-territorial objectives and mandatory environmental measures tied to CAP funding – 'good agricultural and environmental conditions' (known as GAECs).



During the consultation and development phase in 2020 and 2021, [nine became ten](#), with “knowledge and innovation” being added. After years of back and forth between decision makers, the deal on the new shape of the 2023-2027 CAP reform was finally sealed back in November of 2021. The reform passed with a wide majority, despite mounting calls from campaigners to scrap the CAP.

A core innovation of this reform was to **shift more responsibility to member states**, mostly via so-called ‘**national strategic plans**’. The idea was that, through these plans, countries could set out how they intend to meet the CAP objectives in a way that was tailored to their specific circumstances, farmers and rural communities.

This included the chance to adopt customised ‘**eco-schemes**’, designed to support farmers in adopting practices to promote sustainable agricultural practices. These were linked with top-up payments to incentivise their uptake, though these were to be drawn from the Pillar One pool of money.

But, as you’re about to read, the green aspirations of this round of reform were crumbling well before it even came into force.

First signs of trouble

Just a few months later saw the first crack in the green ambitions when, following Russia’s invasion of Ukraine, the Commission granted the very first exemption to green measures in the CAP back in March 2022.

This was justified on food security concerns, [regarding fears around feed availability](#), fanned by those on the right of the European Parliament as well as other stakeholders, prominent among which was EU farmers’ association COPA-COGECA.

In what was [in reality an already familiar pattern](#), this move allowed member states to [derogate](#) from the previous CAP (which was still in force at that time), weakening its greening measures. The two weakened elements were what were then called EFAs – ecological focus areas, essentially the space for nature requirement on farms, and the crop diversification requirement.

To quote: “Member States should be authorised to derogate from conditions relating to the greening payment, including the use of plant protection products (pesticides), for claim year 2022 as regards land lying fallow which has been declared to meet the crop diversification or ecological focus area requirements”

This exemption was rushed through without an impact assessment which, as you’re about to read, continued as an ongoing theme for the coming years. Though it was [somewhat predicable](#), as it turned out, 2022 and 2023 would go on to [see high EU and global grain yields, as well as record high grain prices](#).

Coming thick and fast

Exceptions to EU rules are supposed to be just that – exceptional. But these CAP exemptions proved to be anything but, with the first CAP-italution on green measures opening the door for routine use of derogations over the next few years.

The next came in July 2022, [another delegated act](#), when the Commission preemptively allowed further exemptions for the now freshly implemented CAP into 2023 – the first year of the new CAP reform, which came into play on 1 January 2023. This again eased rules on mandatory requirements on crop rotation and on farm areas left for biodiversity.

Then, around June and July of 2023, [calls started up afresh for these derogations to be extended into 2024](#). The campaign for further derogations was spearheaded by member states, who called for the need for greater flexibility on environmental measures in the name of food security, an ongoing argument we critically assessed in detail in [both 2022](#) and [2023](#).

The Commission immediately promised to “seriously consider” the move, despite admitting that there had been no consideration of the impact of the previous derogations. “We don’t have the detail and analysis of the impact of derogations last [and] this year for the harvest or for the cultivation,”

Agriculture Commissioner Janusz Wojciechowski [told journalists during a press conference at the time](#).

Despite this, the Commission went on to grant this request in January of 2024.

Need for speed

But there was plenty more fun to come in January 2024, which also saw the first farmers' protest in Germany as a pushback against the [introduction of a tax on agricultural diesel](#).

This set off a domino effect, [galvanising farmers in countries across the EU](#) before finally working their way up to the home of the EU institutions on 1 February, where tractors lined the streets of Brussels and farmers filled the square in front of the European Parliament.

The protests were varied in style and target but administrative burden from CAP was at least on one oft cited complaint.

And, with EU elections looming, these protests not only dominated headlines, but also increasingly the political agenda, with politicians and political parties falling over themselves to be seen as the [friends of farmers](#).

This saw the Commission go several steps further, tabling deeper legislative proposals.

First, [the Commission proposed](#) permanently relaxing rules via a delegated act on an obligation to keep areas of permanent grassland stable since the reference year 2018 (GAEC 1), allowing more flexibility for farmers and national administrations.

But this was only the tip of the iceberg.

Under pressure to show a strong response at the EU level amid the looming EU elections, the Commission put forward a proposal to **re-open the basic acts of the CAP** in efforts to reduce administrative load on farmers.

This [new legislative proposal](#) (COM(2024) 139) to fundamentally change the agreed and just implemented CAP ([SPR 2021/2115](#)) was a big and bold move, rapidly introduced and rushed through the legislative process.

Specifically, the proposal shifted the EU's farming subsidy programme from mandatory requirements towards a mix of mandatory and voluntary, slashed or weakened a range of environmental measures, shifted more power into the hands of member states and scrapped checks and controls for all farms under 10 hectares ([all details here](#)). For now, these changes apply for one year but could be extended.

Changes to six of the nine basic CAP conditions (the GAECs – Good Agricultural and Environmental Conditions) were announced. These covered permanent grassland (GAEC 1); soil erosion (GAEC 5); minimum soil cover (GAEC 6); crop rotation (GAEC 7); non-productive areas/landscape features (GAEC 8); environmentally sensitive grasslands and Natura 2000 sites (GAEC 9).

In all cases, mandatory become voluntary – indeed member states had no mechanism left to retain the mandatory status of these after the act passed. Most striking was the complete deletion of all reference to ecological focus areas in GAEC 8, a move which reverted space for nature in CAP back to the 2003 'landscape features' stage of the policy, and which put [millions of hectares of land at risk of pesticide exposure instantly](#).

See table below for a summary of changes to all except GAEC 9.

MEASURE	BEFORE	AFTER
GAEC 1 Permanent grassland	Preservation of permanent grassland in relation to total agricultural surface in reference areas	Member states allowed to grant specific exemptions where there is a risk that requirements would run counter to their objectives
GAEC 5 Soil erosion	Provisions on tillage management, reducing the risk of soil degradation and erosion	Also weakened through the general exemption mentioned above (also GAECs 6 and 7)
GAEC 6 Minimum soil cover	Minimum soil cover to avoid bare soil in sensitive periods	This shall be determined by member states , offering more flexibility
GAEC 7 Crop rotation	Crop rotation in arable land, except for crops growing under water	Crop rotation in arable land, except for crops growing under water. Member states may in addition decide to allow farmers and other beneficiaries to fulfil this standard with crop diversification Rollback to 2013 levels
GAEC 8 Non-productive areas and landscape features	Minimum share (4%) of agricultural area devoted to non-productive areas of features - Retention of landscape features - Ban on cutting hedges and trees during the bird breeding and rearing season	All aspects of the former Ecological Focus Areas apart from maintaining landscape features deleted . This means pesticides can be used on them Estimated 9 million ha of pesticide free land (2019 figures) lost

Dickey dealings and free wheeling

The proposal was presented following a one week ad-hoc consultation, with no accompanying impact assessment. This was justified by the “crisis” nature of the circumstances. No definition of what constitutes a crisis was offered, but it appears that the farmers’ protests were classified as enough of a threat to political stability.

The failure of the Commission to provide an impact assessment prior to its proposal prompted the Parliament to consult its legal service for an assessment of the process. This initially confidential assessment ([which we leaked](#)) [concluded that the process was, despite some caveats, O.K.](#), a position [we critiqued on a number of grounds](#). Chief among these was the idea that these rapid and radical changes were just “a rebalancing of CAP objectives”

The legal advice stated that changing GAEC 8 from mandatory to voluntary, and removing most aspects of it, “would merely be the expression of a policy decision to give precedence to objectives related to flexibility and reduction of administrative burden over environmental/climate objectives, with respect to the specific elements contained in the Proposal”.

As we saw earlier, there are 10 CAP objectives, including “climate change action” and “environmental care”. **There is no such overarching objective for “flexibility” nor “administrative burden”.** Indeed, the use of the words “**related to**” clearly makes the point that there is no core objective on flexibility and administrative burden. To put it simply: while climate and environment *are* objectives, flexibility and administrative burden are merely *related to* (unnamed) objectives.

Another key critique put forward is that **there is no compulsion in the proposed legislation for member states to actually offer voluntary eco-schemes which compensate for the huge range of options taken out of GAEC 8.** And in any case, it is almost impossible by definition, and in any

case very unlikely, that voluntary schemes will see the same take up as mandatory obligations. This could be construed as backsliding, which is not supposed to be happening.

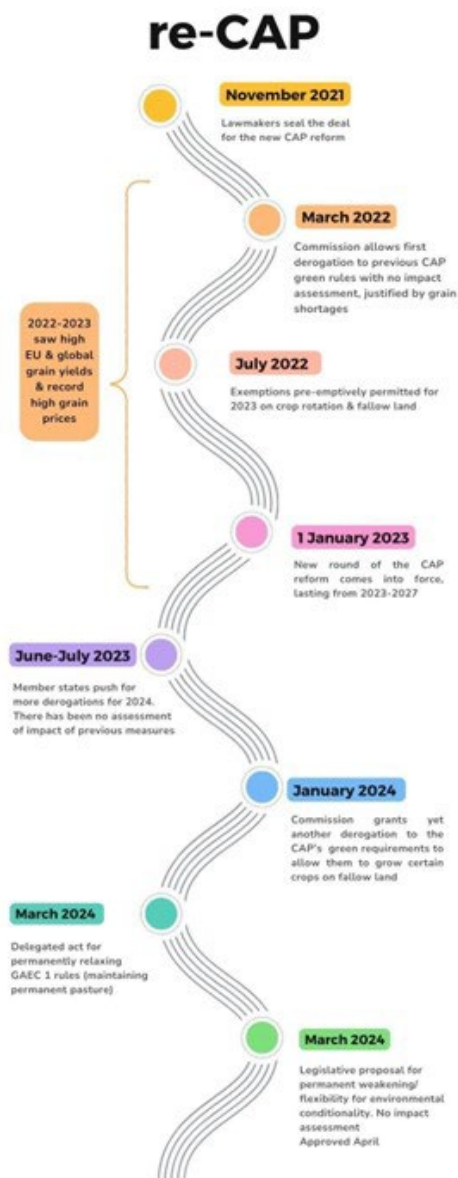
The “no-backsliding” principle (Article 105 of the CAP Strategic Plan Regulation) means member states retain the current level of environmental investment, with “greater overall contribution to the achievement of the specific environmental and climate-related objectives”.

Legal environmental NGO ClientEarth has [since challenged the process](#), calling the legal opinion a “startling interpretation which casts doubt on the objectivity and impartiality of the Parliament’s lawyers”.

Meanwhile, all this was pushed through at [breakneck speed](#).

First, the Council got on board with the plans **in less than 2 weeks**. After tweaking the proposal with some very minor changes, efforts were made to align its position with that of the European Parliament’s agriculture committee to move things along as soon as possible. “We received the Council’s position which were a few changes to the text compared to the Commission’s proposal,” centre-right and chair of the committee Norbert Lins told ARC at the time.

Aligning efforts in this way is unusual – normally both lawmakers discuss separately before coming together to find a compromise – and raised eyebrows among other lawmakers, who questioned the legitimacy of such a move.



Info graphic: Natasha Foote

Then, the Parliament’s agriculture committee requested a so-called ‘urgency procedure’, meaning that the file skips the usual process through the Parliamentary committee stages and instead gets pushed straight to a full house vote.

There was staunch opposition from the Greens/EFA and the Left in the Parliament. The Greens [pointed out that the rules of procedure](#) mean “amendments shall be put to the vote only after they have been made available in all the official languages, unless Parliament decides otherwise. Parliament may not decide otherwise if at least 38 Members object.”

Despite the fact that the amendments were not made available in all the official languages, and that the threshold of 38 was easily reached, chair of the Agri Commission Norbert Lins ignored this when adopting the Council position as the Parliament’s.

The move was approved and the proposal – parroting that of the Council’s position – was put to a plenary vote in April 2024 with no debate, given that all groups except Left refused a request from the Greens’ for a plenary debate.

Lawmakers then officially backed its adoption in April 2024, effectively crashing the Titanic multi stakeholder efforts of the 4-year CAP reform negotiation period in little over 4 weeks.

Conclusions

Now the proposal has [officially entered into force](#), farmers are technically able to **retroactively apply** some of the new rules related to environmental conditionalities for the claim year 2024.

However, the ball is now in EU countries' courts to decide exactly what they want to do with it. For instance, countries can choose to convert the previously mandatory GAECs into eco-schemes – something for national stakeholders to keep an eye on.

As things stand, it's hard to evaluate how these decisions will be felt on the ground as the Commission has not yet provided more updated figures to substantiate their decisions, despite many requests. However, stakeholders have pointed out that it is “highly questionable” if there are available data for 2023 as adequate indicators for measuring conditionality were not included in the CAP reform – so don't hold your breath.

So far, the closest we've come to understanding the nature of the bureaucratic burden facing farmers is the preliminary results of a Commission survey designed to unpack the bureaucratic burden farmers face, which [ARC has broken down here](#) for you.

Something else to watch is that [ClientEarth and Birdlife Europe have together brought a complaint to the EU Ombudsman](#), asking it to “call the European Commission out on failing to respect peoples' rights to information and to participate in the decision-making process when preparing the proposal”. It remains to be seen what will come of this. The Ombudsman has can only make formal recommendations – it has no powers of enforcement.

As well as this speedy adjustment, we can also expect more mid-term measures coming out of Brussels designed to ease burdens for farmers. This includes a review of the Unfair Trading Practices law and information from a recently created observatory designed to keep track of production costs, margins and business practices in the agri-food supply chain.

While all of this is going on in the backdrop, discussions are already gearing up on the future of [the next CAP reform](#). This has also sparked concerns that the changes in this CAP reform could therefore shift the baseline for the starting point of talks.

At the time of publication, the Hungarians have just been passed the baton of the rotating EU presidency – and they're very keen to get the ball rolling on CAP talks

“An important goal [is to] start political discussions among ministers on how the future post-2027 CAP should look like,” one senior diplomat said, adding that the aim is for the Council to formulate “guidelines for the future Commission about the avenues for the future”.

This will have a strong focus on generational renewal and reviving rural areas, the official suggested, adding that they also hope to focus on “synergies” with other policies together with the CAP's rural development fund.

In short – it's been a turbulent time for farmers and the wider agrifood ecosystem, which as we've seen above often translates into stalled, delayed, derailed, and derogated environmental legislation. This process – like climate change and biodiversity collapse – is not likely to slow down any time soon. Keeping up with the CAP keeps us busy – and ARC will continue to help steer you through the choppy waters of EU agri-food and rural policy.

