

EconWorld Proceedings: Simplification of the Common Agricultural Policy – Is It Possible?

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Abstract

The common agricultural policy (CAP) conducted by the European Union is the key support mechanism for the EU farmers. With each consecutive reform it gets more complicated which creates costs and administrative burden both for farmers and member state administration. At the same time, farmers and their organizations as well as member states call for simplifying the rules and making them easier to comprehend and apply. Currently, the call for simplification is also part of the European Commission's agenda. Yet, the progress is slow and the new proposals for CAP 2020+ seem to bring the contrary of simplification.

The paper is based on desk research. Analyzed are EU regulations and literature review. The analysis covers the reforms and changes in the CAP implemented in the 21st century as well as the proposals for the CAP 2020+. The results show that there is still some room for simplifying the rules and procedures under the CAP. Yet, it must be borne in mind that safeguarding the correctness of spending public money is a top priority for the regulations governing the CAP as the public interests must be protected.

Keywords: common agricultural policy, simplification, policy implementation.

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1. Introduction

Common agricultural policy (CAP) is the most common policy of the European Union. As stated by the European Commission² in its document COM(2005)509, “the CAP is unique in the extent to which it is regulated and financed at EU level”. It is also one of its oldest policies. It is also one of the most important EU policies based on its share in the EU budget, which in the coming programming period 2021-2017 will for the first time be lower than the one for the EU cohesion policy. The CAP was launched in 1962. Based on the Treaty of Rome, the CAP has a number of objectives. The treaty objectives have not been changed and include following tasks:

- a) “to increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour;
- b) thus to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;
- c) to stabilise markets;
- d) to assure the availability of supplies;
- e) to ensure that supplies reach consumers at reasonable prices” (TFUE, 2008, art. 39).

The CAP replaces much of the national agricultural policy and its legislation. This should support the creation of the single EU market thanks to the same set of policy support measures and thus setting similar conditions for competition for the agricultural sector within the EU.

The CAP encompasses numerous policy measures that tackle different areas of the agricultural activity as well as the issues related to the development of the rural areas. The key During its operation it has undergone numerous reforms and modifications. The rationale for these changes differed depending on the type of alteration. Yet, they generally were a response to the changes observed in the agricultural sector as well as in its surrounding responding to the challenges stemming from the developments in international trade and the globalisation process.

One of the unwelcomed by-products of these changes was the plethora of rules and regulations. The exponential growth of the legal procedures was also a result of the developments in other areas of the EU policies, especially of the ones related to fraud prevention and to the need for impact assessment.

The need for the simplification of the CAP stems from the fact that the complexity and the sheer number of regulations make the policy’s implementation very difficult and burdensome. The rigorous and exhaustively detailed procedures and obligations made the implementation of the CAP instruments too costly for both national implementation and control institutions and to the farmers. In the case of the voluntary measures this administrative burden can lead to lack of interest in participation and thus low absorption rate and insufficient effectiveness of the policy.

However, it must be stated that the problem of the excessive administrative burden is also a result of the fact that the EU includes member states with different legal and institutional

²For the purpose of clarity the European Commission is referred to as European Commission, Commission or EC all through the article despite the fact that until the Lisbon Treaty entered into force the Commission’s full name was Commission of the European Communities. The same applies to the European Union. Only this name as well as its abbreviation are used in this text.

traditions and cultures to cater to their need while safeguarding the legality of the spending of public funds. This means that the procedures become complex as they have to tackle all the possible issues related to policy implementation and control of the spending. Thus, the task of simplification is a difficult endeavour as the simpler rules cannot be traded off for less protection of the public interests.

The paper is based on desk research. Analysed are EU regulations and literature review. The analysis covers the reforms and changes in the CAP implemented in the 21st century as well as the proposals for the CAP 2020+. The paper focusses on the regulations related to the CAP. Yet, it must be borne in mind that the simplification relates not only to the CAP but also to other areas of the EU regulations concerning agriculture. Simplification also involves, *inter alia*, the EU rules on the state aid in the agricultural sector.

The paper is divided into two parts. The first of them is devoted to the CAP simplification process which started already in 1995 and presents what has been done so far, while the second part of the paper shows the areas of the CAP that still require simplification and discusses the ways of achieving this and the difficulties that accompany this process.

2. What has been done so far?

Simplification of the CAP is part of the EU strategy aimed at improving the EU regulations, yet the process of CAP simplification started before the EU strategy for better regulation was launched. The need for CAP's simplification has been seen for quite a long time as the first mention of the simplification in the context of the CAP was made by the DG AGRI commissioner Franz Fischler in 1995. There early examples of the Commission's determination to simplify the CAP was written into such documents as COM(1999)156 and COM(2001) 48.

In the period 1997-2000 the Commission conducted a systematic analysis of the CAP regulations and procedures in force and asked the member states' paying agencies to enumerate suggestions for simplified rules and procedures. Approximately only a half of them could be taken into account as the other half was not in line with the simplification principles, being too costly or undermining sound financial management of the EU funds. The analysis was conducted once again in the period 2001-2003 and the suggestions of the member states were taken into account in the Commission's reform proposal in 2003.

In this period the Commission focused on the following aspects of the EU agricultural legislation:

- (1) "making agricultural legislation as clear, transparent and easily accessible as possible
- (2) reducing the administrative workload that the CAP imposes on farmers and on others concerned, as well as on national and Community authorities, to only what is strictly necessary" (COM(2001)48).

One of the first steps that were taken by the EC was the consolidation of about 500 acts on agriculture and making them available on the EU website of which the current address is www.eur-lex.europa.eu.

The next Commission's communication relating to the CAP's simplification was published in 2005 (COM(2005)509) and the first action plan concerning simplification of this policy was published in 2006. The action plan was focused on technical simplification. The Commission distinguishes two types of simplification:

- “technical simplification (i.e. within a constant policy framework) implies revision of the legal framework, administrative procedures and management mechanisms to achieve streamlining and greater cost-effectiveness and attain existing policy objectives more effectively, without changing the underlying policies;
- policy simplification reduces complexity through improvements to the agricultural support and rural development policy instruments. It may be described as “policy development with simplification implications”. Impact assessment has a particular role to play here” (CEC, 2005).

Already in the Commission’s document COM(2005)509 the Commission made it clear that the simplification can go insofar as to the objectives of the CAP are safeguarded. However, the ambition to simplify the CAP is not a stand-alone action conducted by the EC, but it must take into account the needs of other actors.

The first actual steps towards simplification concerned the market measures. Within the 2003 reform the numerous regulations concerning the support for one agricultural product but having basically the same legal provisions were amalgamated into one regulation. The horizontal Common Market Organisation replaced the earlier existing structure of 21 basic regulations.

At this stage of the CAP simplification history some reference has to be made to the EU better regulation programme. Its first step was made in 2002. It envisaged making it obligatory to conduct impact assessments and stakeholder consultations for all new initiatives proposed by the Commission. In 2003 the EC published communication presenting its plan for updating and simplifying the Community acquis (COM(2003)71). The proposed actions included:

- “The removal of “dead wood” - legal texts that are obsolete and outdated - leading to considerable reduction in the volume of the Community acquis without changing the legal status,
- Rewriting legal texts to render them more coherent and understandable, again without changing the legal status,
- Improving the presentation of the Community acquis and developing more user-friendly access to consult and use Community law,
- The beginning of a long-term process of gradual modernisation and simplification of existing legislation and policies – not to deregulate or cut back the acquis but to replace past policy approaches with better adapted and proportional regulatory instruments” (COM(2003)71).

Following phase of the EU legal acts’ simplification process was related to the implementation of the Lisbon strategy. The process was also supposed to involve simplification of the EU procedures related, inter alia, to reporting and the whole process of implementing the strategy to know who does what (COM(2005)24). The following Commission’s document entitled “Better Regulation for Growth and Jobs in the European Union” (COM(2005) 97) clearly put the simplification into the framework of better regulation emphasising the need to improve the quality of the legislation throughout the legislation process so that the need for ex-post simplification is minimized and the simplification is built-into the law making process.

It must be stated that one of the important steps towards better regulation was the introduction of common use of impact assessments for proposed regulations. In 2005 the

Commission published new extended guidelines for impact assessment. The required impact assessment must be prepared in line with the principle of sustainable development.

In 2005 the Commission also presented the priorities that were to be used to shape the process of further simplification. They included:

1. “A comprehensive analysis of selected sectors regarding the impact of legislation, including economic, environmental and social aspects.
2. A simplification method drawing on techniques such as repeal, codification, recasting and changing implementing methods.
3. A legislative method entailing a clear preference for essential requirements rather than technical specifications, the increased use of co-regulation, the promotion and increased use of information technologies.
4. An increased use, as appropriate and on a case by case basis, of regulations instead of directives as well as of review clauses”(COM(2005)535).

In this communication also a list of regulations that were to be simplified. This became part of the annual work programme for the Commission. In the period 2005-2009 it was to cover 164 legal acts.

The EC’s action plan regarding the CAP simplification was based on the consultations with member states and other stakeholders and was planned as a revolving process. The plan carefully describes twenty proposals for simplification. These are detailed regulations simplifying specific issues and not the whole system of support for farmers or the system of CAP implementation. Each proposal includes not only the rationale but also the exact legal basis that it refers to and the description of the simplification action to be taken as well as its timing. An example is presented in table 1.

Table 1: An example of the CAP simplification proposals under the action plan

Proposal	Rules for the labelling of eggs
Rationale	The current Commission Regulation concerning the labelling of eggs lays down in a detailed way how eggs are to be collected, marked and packaged. A Council Regulation on the marketing of eggs was adopted in June 2006 which creates a new framework for the labelling of eggs. It is proposed to redraft the existing Commission Regulation to save costs for farmers and operators by creating more flexibility with regard to the rules concerning: - the collection of eggs - the marking on origin and laying date - the obligations with regard to packaging, and - the obligation to keep records.
Sector concerned	Eggs and poultry
Measure/ legal basis	Article 11 of Council Regulation (EC) No 1028/2006 on marketing standards for eggs
Type of action	sectoral
Description of action	The existing implementing Regulation (EC) No 2295/2003 will be redrafted to take into account the changes introduced by the new Council Regulation (EC) No 1028/2006
Simplification impact	Currently, collection, marking and packaging of eggs is regulated to quite some detail. The new implementing regulation will leave greater flexibility with regard to: - collection of eggs from production sites; - rules with regard to the marking of origin, laying date, etc.; - obligations concerning packaging - obligations to keep records.

	As a result the obligations and costs for producers and the downstream sector will decrease and the control costs for Member States will be reduced.
Implementation (decision making process)	Commission Regulation. Legal Base: Council Regulation (EC) 1028/2006 (management committee procedure)
Timing	2006/2007; entry into force 1 July 2007

Source: Own elaboration based on COM(2006)689.

The efforts related to the CAP simplification were accompanied by the actions related to the whole EU legal framework. In November 2006, the Commission proposed to reduce the administrative burden on business stemming from EU legislation by 25% by 2012 (COM(2006)689). The reduction was also supposed to catalyse the EU growth and creation of jobs. It was followed by the document stipulating how to measure administrative costs and how to reduce administrative burden (COM(2006)691).

In the following years the strive for simplification of the EU legislation enabling a reduction of the administrative burden became part of the EC's work. In 2007 a special high level group was set up. In November 2011, it adopted a report: "Europe can do better: Report on best practice in Member States to implement EU legislation in the least burdensome way", which includes examples of best practice.

In 2012 the Commission reached its target of cutting by 25% the administrative burden for businesses stemming from EU legislation with an estimated annual savings of EUR 30.8 billion. A new phase in improving the EU legislation was introduced in 2015 when the Commission set up the REFIT Platform. This platform serves as a discussion forum for the EC and other stakeholder involved in the legal process. It should help ensure that issues of simplification and burden reduction are always taken into account when legislation is evaluated and revised.

Much is still to be done and as practices shows it is not an easy process. A good example is the so-called omnibus regulation which was supposed to simplify the rules related to the implementation of the cohesion policy and CAP. In fact, only the part related to the CAP has been agreed so far. This shows that the process of streamlining the regulations is a difficult task.

3. Can more be done?

As it has already been mentioned the EC distinguishes between technical and policy simplification. It must also be stated that there are different methods to conduct simplification process. The EC in its communication of 2003 (COM(2003)71) named following methods of simplifying the EU *acquis communautaire*:

1. Consolidation of the existing regulations in groups related to one issue and it includes all the amendments made to these regulations but the consolidated document is in fact not legally binding.
2. Codification is a further step after consolidation as it involves by harmonising terms and definitions as well as correcting errors without substantive changes in the legal documents already consolidated.
3. Recasting relates to substantial modifications in legal acts.

4. Repeal relates abolishing regulations that are obsolete or irrelevant. The need for this process can be minimized by introducing in new legal act the so-called sunset-clauses or obligation for periodic reviews of their relevance.

Naturally, these methods must be accompanied by efforts to make the legal acts in force easily identifiable by the EU citizens and accessible. This has been made much easier to ensure with the use of modern IT technologies.

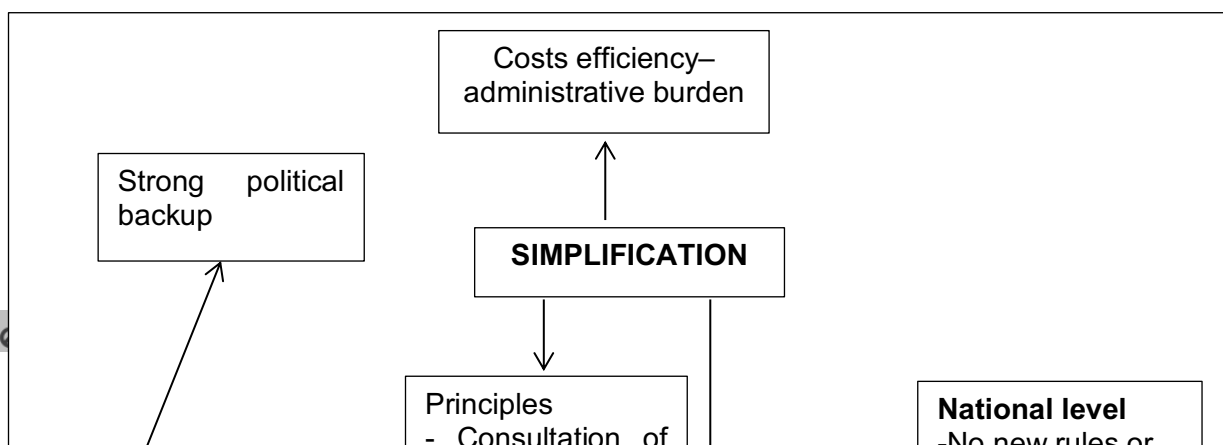
Simplification is a very difficult task both politically and technically. The CAP is a very complex and politically sensitive policy. Moreover, the CAP's simplification is not being undertaken in a vacuum but it must take into account other EU policies and rules governing spending of public funds and other procedures. It must be underlined that the efforts of the European Commission to simplify the CAP often clash with the interests of the member states. This is especially visible during the works on consecutive CAP reforms. Every time the EC's proposals try to limit the number of policy measures and exceptions or other forms of special treatment towards a given member state or type of production. Yet, the particular interests of the member states and their agricultural lobbies push for inclusion of other forms of measures or special rules that are supposed to take into account the national or regional specificity of the agricultural sector.

One of such examples is the CAP reform decided in 2003 and implemented in 2005 which concerned the EU system of direct payments. The Commission originally proposed only one decoupling model, two types of payment entitlements decoupled from production, no re-coupling and no transitional periods or derogations. However, due to the numerous counterproposals in the negotiation process the EC and the Council agreed to two decoupling models with a number of sub-models, partial decoupling or the lack of it for certain support scheme and various derogations.

The simplification of the CAP is called for by all of its stakeholder including the European Commission. Also in its communication concerning the CAP in the period 2021-2027 it underlined the need for simplifying the CAP (COM(2017)713).

The problem with the simplification of the CAP is the fact that the complexity of this policy is ever increasing. The environmental aspects of the CAP require careful monitoring and control which are just contradictory to simplification. Yet, the evidenced-based policy, that is the direction in which the CAP is to be developed, requires evidence and evidence requires monitoring and control. Therefore, the simplification of the CAP 2021-2027 will be hard to achieve given the need to show the results of the public funds being spent. Moreover, the process of simplifying the CAP has numerous levels and limitations (fig. 1).

Figure 1: Factors effecting successful simplification



Source: Vasary (2013), fig. 1.

Summing up, this section it can be stated that more can be done to make the CAP simpler but the answer to the question of probability of such action one cannot be that sure and optimistic. This is not entirely the probable of the CAP itself, but it has more to do with the general state of the EU and the current relations among its institutions and member states. The struggles of the EU observed in recent years culminated with the Brexit are the most vivid proof that the uncertainty related to the future direction of the EU and even of its further existence are present in the daily operations of the EU stakeholders. This makes the efforts targeted at improving the EU governance even more difficult which hinders the progress in streamlining the EU policies.

Conclusions

The need for simplification of the EU legislation, including the CAP regulations, stems from the fact that simple and clear legislation is necessary for sound management of limited resources. Moreover, it can facilitate effectiveness and efficiency of the EU policies as well as act as a barrier to fraud and other types of abuse of public resources.

The call for CAP simplification has been a constant part of all the plans and reform proposals for over two decades. The results so far can be summed up as “mixed”. Therefore, the need for simplification is still valid. Unfortunately, the planned shape of the CAP in the programming period 2021-2027 does not envisage significant progress in the efforts related to the CAP simplification. With tiny exceptions the actual trend is opposite to simplification. This

unwelcomed situation has a number of determinants but the growing complexity of the EU legal process related to trilogue and the increased role of the European Parliament in shaping the CAP reforms can be named as one among the key factors.

With the plans to make the member states more involved with the shaping of the CAP implementation in the period 2021-2027, their role in simplification of this policy will grow and the procedures and regulations prepared by them will be crucial for making the CAP easy or difficult for farmers.

Currently and in the future the efforts of all the involved parties should focus on creating clear and simple regulations during the decision-making process so that there is no need to modify them later. This is a difficult task given the time constraints that always accompany the CAP reforms. Therefore, the process of formulating and shaping the next CAP reforms should be prolonged to give time for clarifications and simplifications of the proposed regulations. However, achieving this would be a challenging task as the formulation of CAP reforms and their translation into regulations is a highly political process.

Summing up, it must be stated that the simplification process is not something that can be finished once and for all. It must be part of the legislative processes to ensure that the administrative burden is not too big for the stakeholders and that it does not hinder the implementation of the policy measures. The future CAP tips the scales towards member states when it comes to both design and implementation. This means that also the simplification effort will have to be taken by them. The simplification of the CAP is possible but with the increasing complexity of this policy, further progress in simplification is hardly probable.

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