



EUROPEAN
COURT OF AUDITORS

Special Report No 16

2012

ISSN 1831-0834

THE EFFECTIVENESS OF THE **SINGLE AREA
PAYMENT SCHEME** AS A TRANSITIONAL
SYSTEM FOR SUPPORTING FARMERS IN THE
NEW MEMBER STATES



Special Report No 16 // 2012

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(pursuant to Article 287(4), second subparagraph, TFEU)

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Special Report No 16 // 2012

A great deal of additional information on the European Union is available on the Internet.
It can be accessed through the Europa server (<http://europa.eu>).

Cataloguing data can be found at the end of this publication.
Luxembourg: Publications Office of the European Union, 2012

ISBN 978-92-9237-921-6
doi:10.2865/27543

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Printed in Luxembourg

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REPLY OF THE COMMISSION

ABBREVIATIONS

CAP: Common agricultural policy

CATS: Clearance Audit Trail System (database collecting information related to European agricultural funds payments)

CNDP: Complementary National Direct Payments

EAGF: European Agricultural Guarantee Fund

Eurostat: Statistical Office of the European Union

GAC: Good Agricultural Condition

GAEC: Good Agricultural and Environmental Condition

IACS: Integrated Administration and Control System

LFA: Less favoured area

LPIS: Land Parcel Identification System

SMR: Statutory Management Requirements

SAPS: Single Area Payment Scheme

SPS: Single Payment Scheme

UAA: Utilised Agricultural Area

WTO: World Trade Organisation

GLOSSARY

Act of Accession: Act containing the terms and conditions under which a country becomes a Member State of the EU.

Agenda 2000: This reform put the CAP on two main pillars which the Community budget finances through two European Agricultural funds. The first pillar (European Agricultural Guarantee Fund (EAGF)) provides for market measures and income support in the form of direct payments. The second pillar (European Agricultural Fund for Rural Development (EAFRD)) co-finances rural development measures in areas such as agri-environment, the promotion of food quality, higher technical standards and animal welfare.

Agricultural entrepreneurial income: Income generated by the farming activities which is used to reward own production factors (work and/or enterprise, own capital and owned land). It corresponds to factor income minus costs linked to borrowing capital and hiring labour.

Agricultural factor income: Indicates the net value added of agricultural activities (as well as inseparable non-agricultural, secondary activities) at factor cost. It is calculated by subtracting the value of intermediate consumption, the consumption of fixed capital and production taxes from the value of agricultural output at basic prices and adding the value of (other) subsidies on production. Households often receive income from other sources (non-agricultural activities, salaries, social benefits, income from property) so that agricultural income is not necessarily identical with the actual income of agricultural households.

Decoupling: Process of separation of direct aid payments from agricultural production.

EU-Enlargement: Process of expanding the European Union through the accession of new Member States.

EU-15: Belgium, Denmark, Germany, Ireland, Greece, Spain, France, Italy, Luxembourg, the Netherlands, Austria, Portugal, Finland, Sweden, United Kingdom.

Health Check: 2008 review of the 2003 reform of the CAP. Adoption of Commission proposals for further decoupling of direct aids and additional flexibility for the SPS, higher transfers of expenditure to rural development measures, modifications to the intervention system, increase of milk quotas and other sector-specific measures.

New Member States: Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia.

SAPS: Transitional simplified income support scheme for farmers in the new Member States.

SAPS Member States: New Member States which opted for the introduction of the SAPS instead of the aid schemes applied in the EU-15: Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Poland, Romania and Slovakia.

2003 reform: CAP reform ('Mid-Term Review') which aimed to reduce price support and compensate for this reduction by direct income aid continuing a process that had begun in 1992 (MacSharry reform), and confirmed in 1999 (Agenda 2000 reform). The 2003 reform introduced the decoupling of aid and cross-compliance while reinforcing rural development assistance.

EXECUTIVE SUMMARY

I.

The Single Area Payment Scheme (SAPS) is a simplified income support scheme directed at farmers in the new Member States. It was introduced by Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Poland, Romania and Slovakia. The scheme enabled national administrations to implement direct aid to farmers until the Member States concerned change over to the support scheme that is scheduled to be in place in the EU as a whole as from 1 January 2014. SAPS payments amounted to some 5 billion euro in the financial year 2011.

II.

Under the SAPS, farmers have no obligation to produce goods or to employ factors of production. They must however maintain their land in good agricultural and environmental condition (GAEC) and respect basic standards with respect to the environment, food safety, animal health and welfare.

III.

The Court's audit of the implementation of the SAPS focused on the following:

- the implementation of the main elements of the scheme, including the definition of the beneficiaries and the definition of eligible land;
- the contribution of the scheme to the objective of supporting farmers' income in the new Member States;
- the preparation of the transition to a new direct payments system common to all EU Member States.

IV.

In its report on the SPS¹ the Court noted the inadequacy of the definition of 'farmers' and the payment of aid to beneficiaries not or only marginally involved in farming. The current audit allows the same conclusions to be drawn with respect to SAPS. In addition, in some of the Member States concerned, SAPS aid was also legally paid to (and supporting the income of) public entities managing state land and not otherwise involved in farming.

V.

Member States did not precisely identify eligible areas and payments were made in relation to unutilised parcels or land devoted to non-agricultural activities. This situation has an impact on the amount paid to each individual farmer and weakens the link between the payment and the eligible area.

VI.

SAPS payments have significantly contributed to increase farmers' income in the Member States concerned and they are currently the main source of net income for many farmers. However, in terms of its distribution SAPS aid is essentially based on the area of agricultural parcels at the disposal of farmers without taking into consideration neither the specific regional characteristics of farming activity, nor the contribution of farmers to the production of public goods. In addition, the dual structure of the agricultural sector in many of the new Member States (ranging from large farms on the one hand to a large number of small family holdings on the other hand) together with the surface-based nature of the scheme results in a strong concentration of the payments to a small number of large beneficiaries while the majority of farmers receive very small amounts of aid.

¹ Special Report No 5/2011 on Single Payment Scheme (SPS): Issues to be addressed to improve its sound financial management (<http://eca.europa.eu>).

VII.

There is no option to differentiate SAPS payments within a Member State to take into account the agricultural potential of regions or environmental criteria. Since 2010, however, Member States may use a part of the national SAPS envelope for specific aid to farmers in economically vulnerable or environmentally sensitive areas, or for economically vulnerable types of farming. However, it is too early to assess the impact of this option on the distribution of SAPS aid.

VIII.

The level of direct payments in the Member States was established with a view to encouraging the necessary restructuring of the agricultural sector and to avoiding the creation of considerable income disparities and social distortions in the rural societies affected. However, persisting structural weaknesses in the agricultural economy of SAPS Member States may impact the long-term effectiveness and efficiency of the direct payments. To date the Commission has not analysed the effects of SAPS aid on the restructuring of the farming sector.

IX.

The effectiveness of SAPS in supporting farm income is diminished where the aid is 'capitalised' in land or land lease prices. The Commission has not yet analysed these effects in the Member States visited but there is evidence that SAPS payments are correlated with an increase in land and land lease prices.

X.

Most Member States applying the SAPS have not prepared for the introduction of an entitlement-based scheme that will succeed the SAPS. The experience of the introduction of the SPS in the EU-15 Member States in 2005 has shown that the implementation of such a scheme resulted in significant delays in payments to farmers.

XI.

The Court recommends that:

- The support to farmers' income should be directed to the active farmer who conducts concrete and regular agricultural activities. In particular public entities managing state land and not otherwise involved in farming should be excluded from the benefit of SAPS aid.
- The eligibility of land for aid should be clearly defined and limited to parcels on which GAEC standards require concrete and regular agricultural activities to be carried out. In the event of the introduction of an entitlement-based scheme, payment entitlements should only be allocated for such parcels.
- A more balanced distribution of aid between farmers should be sought either by capping higher individual payments or by taking into consideration the specific circumstances of the farms in the different regions.
- The Commission should analyse the extent to which the effectiveness and efficiency of the direct payments is adversely affected by structural weaknesses and land prices. On the basis of such an analysis, the Commission should consider complementary measures aimed at restructuring the farm sector and making it more competitive.
- The Commission should actively support the Member States and more closely monitor their preparations for the introduction of a future entitlement-based scheme. In particular, it should assist Member States in identifying key requirements for national administrations and farmers.

INTRODUCTION

BACKGROUND

1. When the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia joined the European Union (EU) on 1 May 2004, the core of the common agricultural policy (CAP) consisted of coupled direct payments to farmers based on areas of arable land and numbers of animals (bovine, ovine and caprine). In 2002, the Council had decided that such direct payments would be available to farmers in the new Member States. In accordance with the principles in force at that time in the EU Member States (EU-15), the Council established for each new Member State a budgetary ceiling. This is the maximum amount financed from the EU budget that could be spent annually on direct payments. The Council also decided that direct payments would be progressively increased until 2013 to be comparable to the support level granted in the EU-15.
2. However, the structure of the agricultural sector in most of the new Member States was substantially different from that which prevailed in EU-15 Member States. It was characterised by a dual structure with large farms on the one hand and a large number of small family holdings on the other hand. Overall, the productivity of the sector was low. In addition, most national administrations had no experience of the management of a system of direct payments to farmers.
3. For this reason, the Act of Accession signed with the Member States that joined the EU in 2004 offered them, as an alternative to coupled direct payments, the option to implement, during a transition period, a simplified income support system: the 'Single Area Payment Scheme' (SAPS). This Act provides that, for each new Member State, the Commission shall fix an annual financial envelope for SAPS expenditure within the national budgetary ceiling established by the Council. The same option was also offered to Bulgaria and Romania when they joined the EU in 2007.

- 4.** In parallel with the process of enlargement of the EU, the Council adopted the 2003 reform of the CAP. This reform:
- (a) introduced a Single Payment Scheme (SPS) replacing most existing direct payments whereby aid was 'decoupled' from any obligation to produce;
 - (b) made disbursement of the full amount of direct payments conditional on the respect of 'cross compliance' obligations by farmers²; and
 - (c) established a compulsory mechanism to reduce all direct payments exceeding 5 000 euro per calendar year and per farm by a fixed percentage ('modulation').
- 5.** The Council decided in 2004 that the principles adopted in the 2003 reform would be applicable in the new Member States, with the exception of the 'modulation' element (at least until the level of direct payments applicable in the new Member States equalled that applicable in the EU-15). However, the option of implementing the SPS was maintained³.
- 6.** In 2004, only Malta and Slovenia elected to implement the direct payments provisions in force at the time and, subsequently, in 2007, the SPS which had come into force in the EU-15 since 2005. The Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Poland, Slovakia and, in 2007, Bulgaria and Romania decided to implement the SPS.
- 7.** From the start, the SPS was thus conceived as a transition towards the direct payment system in force in the EU as a whole (SPS as from 2005). Initially, the transition period was to end in 2009 at the latest. However, within the framework of the 'Health Check' of the CAP in 2008, the Council extended this period until the end of 2013. Therefore, the direct payment system currently under discussion in the European Parliament and the Council that will be adopted as part of the new CAP to be implemented as of 2014 will replace the SPS as of this date⁴.

² This means that payments to farmers are conditional on respecting basic standards for the environment, food safety, animal health and welfare on their farms known as statutory management requirements (SMR) and maintaining their land in good agricultural and environmental condition (GAEC).

³ Council Decision 2004/281/EC of 22 March 2004 adapting the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, following the reform of the common agricultural policy (OJ L 93, 30.3.2004, p. 1).

⁴ COM(2011) 625 final/2 of 19 October 2011: Proposal for a regulation establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy.

KEY ELEMENTS OF SAPS

8. SAPS is a simplified income support scheme directed at farmers and based on the area of eligible land at their disposal⁵. In each Member State, the aid consists of an annual amount per hectare of eligible land. Farmers submit to the competent national authority an annual declaration comprising all agricultural parcels. Farmers have no obligation to produce or to employ factors of production, but they must maintain the parcels in good agricultural and environmental condition (GAEC)⁶.
9. In each Member State the level of the annual payment per hectare is calculated by dividing the annual financial envelope by the **agricultural area** of each new Member State. Where in a given year these payments exceed the annual financial envelope, the national amount per hectare applicable is reduced proportionately by applying a reduction coefficient. This ensures that payments do not exceed the national envelopes adopted in the Acts of Accession.
10. For the Member States which joined the EU in 2004 the **agricultural area** is defined as that part of the 'utilised agricultural area' (UAA) which was maintained in 'good agricultural condition' (GAC) as at 30 June 2003⁷. The establishment of that date excluded from the benefit of SAPS land which was unutilised at that time, even when farmers took such land back into cultivation in later years. In Bulgaria and Romania, however, no such date limit was established with the result that farmers can benefit from SAPS payments in relation to formerly abandoned land which they take back into cultivation after the accession of these Member States to the EU.
11. The 'utilised agricultural area' is a statistical concept used by Eurostat⁸. It comprises the total area taken up by arable land, permanent grassland, permanent crops and kitchen gardens.
12. A comparison between the SAPS and the SPS is set out in **Annex I**.

⁵ Article 1(c) and Article 124(2) of Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (JO L 30, 31.1.2009, p. 16).

⁶ Article 124(4) of Regulation (EC) No 73/2009.

⁷ Article 124(1) of Regulation (EC) No 73/2009.

⁸ This concept is defined in Commission Regulation (EC) No 1200/2009 of 30 November 2009 on farm structure surveys (OJ L 329, 15.12.2009, p. 1).

OPTION TO PROVIDE COMPLEMENTARY NATIONAL DIRECT PAYMENTS

- 13.** Before joining the EU, some Member States had already granted direct payments to their farmers which would have been incompatible with the principles of the EU common market. To avoid a possible decrease of the level of support received by farmers after the accession of their country to the EU, the Member States concerned may grant from the national budget complementary direct payments (CNDP), in addition to SAPS aid, in order to offset the gradual phasing-in of EU direct payments⁹. They have to be approved by the Commission and the total direct support which farmers may be granted must not exceed the level of direct support they would be entitled to in the EU-15. The CDNPs are gradually being phased out to coincide with the annual increase of the SAPS payments.

⁹ Article 132 of Regulation (EC) No 73/2009.

AUDIT SCOPE, OBJECTIVES AND APPROACH

- 14.** The Court has audited the implementation of the SAPS since the financial year 2005 in the framework of the annual Declaration of Assurance (DAS). These audits were however limited to the legality and regularity of the payments and the functioning of supervisory and control systems. The Court published the results of these audits in its respective Annual Reports.
- 15.** SAPS is the second largest scheme financed by the European Agricultural Guarantee Fund (EAGF) and the main source of farmers' income support in the new Member States. Annual expenditure increased over the years from 1,4 billion euro in the financial year 2005 to around 5 billion euro in 2011. The aid is scheduled to reach up to around 7,5 billion euro by the financial year 2014.
- 16.** The audit was carried out in 2011 and included visits to the European Commission and to five Member States that had introduced the SAPS either in 2004 (Hungary, Poland and Slovakia) or in 2007 (Bulgaria and Romania) as well as documentary analysis and review of studies and evaluations. In 2011, Member States visited paid some 4 billion euro in SAPS aid which represents some 80 % of the total expenditure made under the scheme in that financial year¹⁰.
- 17.** This report focuses on the following:
- the implementation of the main elements of the scheme, including the definition of the beneficiaries and the definition of eligible land;
 - the contribution of the scheme to the objective of supporting farmers' income in the new Member States;
 - the preparation of the transition to a new direct payments system common to all EU Member States.

¹⁰ See *Annex II*.

OBSERVATIONS

PAYMENTS MADE TO BENEFICIARIES ONLY MARGINALLY INVOLVED IN FARMING

- 18.** As pointed out above, SAPS payments are intended to support the income of farmers¹¹. They are designed to be consistent with the overall objectives of the CAP aiming to 'increase agricultural productivity' and 'thus ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture'¹².

DEFINITIONS OF 'FARMER' AND 'AGRICULTURAL ACTIVITY'

- 19.** According to the regulation¹³ a farmer is defined as a person or group of persons engaged into an 'agricultural activity'. An 'agricultural activity' consists in the 'production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes or maintaining the land in good agricultural and environmental condition'.
- 20.** The Court has already observed that the definition of 'farmers' as persons or entities having eligible land at their disposal and engaged in an 'agricultural activity' lacked precision¹⁴. The Court found that Hungary and Romania had further clarified these terms in their respective national legislation. Hungary decided that SAPS aid should only be paid to the users of the land. In Romania the national rules explicitly exclude from SAPS payments persons who only grant a concession for land use or rent out land. In practice this is however rarely checked and, in both Member States, the Court found that SAPS aid had been paid to landowners who had no own agricultural activity on the land in question while the farmers actually using it had no access to SAPS aid.

¹¹ Article 1(c) of Regulation (EC) No 73/2009.

¹² Article 39 of the Treaty on the functioning of the European Union:

'1. The objectives of the common agricultural policy shall be:

- (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.

2. In working out the common agricultural policy and the special methods for its application, account shall be taken of:

- (a) the particular nature of agricultural activity, which results from the social structure of agriculture and from structural and natural disparities between the various agricultural regions;
- (b) the need to effect the appropriate adjustments by degrees;
- (c) the fact that in the Member States agriculture constitutes a sector closely linked with the economy as a whole.'

¹³ Article 2 of Regulation (EC) No 73/2009.

¹⁴ Special Report No 5/2011.

- 21.** As in the case of the SPS, the Court also identified beneficiaries of SAPS aid who were marginally involved in farming. Cases in point include real estate companies, airports (Poland and Romania), forestry enterprises, hunting associations, fishing clubs or ski clubs (Hungary, Poland and Slovakia). The Commission and the Member States visited have neither details of the precise number of such cases nor of their financial impact. As an illustration of such cases, the Court found that in Poland, for application year 2010, 1 345 hunting associations had legally received SAPS aid for an amount of 2,54 million euro in relation to 19 000 ha of agricultural land. Likewise, in Hungary, 337 hunting associations received more than 1 million euro in SAPS aid in relation to 7 000 ha of agricultural land.
- 22.** The Court also identified, in the Member States visited, a specific group of SAPS beneficiaries consisting of public entities managing land owned by the state under the respective legislations. These entities carry out no or only marginal agricultural activities. In such cases, SAPS payments primarily finance a public function incumbent upon such entities rather than support farmers' income.
- 23.** The 2008 Health Check of the CAP allowed Member States to define criteria excluding beneficiaries such as the ones mentioned above from the benefit of SAPS payments. However, to date none of the Member States visited during the audit has taken advantage of this option and, as a result, the situation described above still prevails.

LAND USED FOR NON-AGRICULTURAL ACTIVITIES

- 24.** The provisions which are applicable for the SPS do not permit payments to be made in relation to land which is not predominantly used for agriculture¹⁵. Such rules do not exist for the SAPS. In Hungary, the authorities made SAPS payments in relation to permanent grassland owned by the State and dedicated to military training but for which the national authorities could not clarify whether they were exclusively used for training or used even partially for agricultural purposes (grazing sheep). The Court estimated that in 2010 4,25 million euro had been paid in relation to 25 000 ha of military terrains¹⁶.

¹⁵ Article 34 of Regulation (EC) No 73/2009.

¹⁶ The precise extent of these military areas for which SAPS aid had been paid was not known to the national paying agency.

BOX 1

STATE ENTITIES RECEIVING SAPS AID FOR ONLY FULFILLING PUBLIC FUNCTIONS UNDER NATIONAL LEGISLATION

In **Poland, Romania, Slovakia** and **Hungary** large tracts of agricultural land are state owned. For example, in Poland, the Agricultural Property Agency which manages around two million hectares belonging to the State Treasury is the largest individual manager of agricultural land. The management authorities are not farming the land themselves but lease it to farmers who are usually entitled to claim SAPS aid in relation to the parcels they farm. These Member States had no uniform policy vis-à-vis such entities: while in Slovakia and Romania they do not benefit from SAPS aid, in Poland, county offices of the Agricultural Property Agency receive annually about 1 million euro of SAPS aid in relation to land for which they have not found a tenant. The county offices had entrusted service providers with the upkeep of the land to conserve its agricultural value at costs per hectare much lower than the annual SAPS aid. This is however a function which the authorities have to exercise anyway, because national legislation obliges them to maintain the value of the public property.

In **Hungary**, the state is the largest individual SAPS beneficiary¹⁷. Such aid is paid, for example, in relation to national parks which are financed by the central state budget with the primary purpose of maintaining nature reserves. Other cases of institutional land users whose main objective is not farming include water management companies and municipalities. The national authorities have no overview of the extent to which payments go to such entities. However, the Court estimates that 300 000 ha could be concerned for which the national authorities in 2010 paid around 50 million euro in SAPS aid.

In **Romania** where municipalities own some 1,6 million ha of agricultural land, of which around 1,5 million ha is grassland, the Court found that in 2010 more than 1 000 municipalities and local authorities had received 23,5 million euro in SAPS aid in relation to some 340 000 ha of public land. This is land which local farmers mostly use in common, for example to graze their cattle or to harvest grass and on which the public owners have as a rule no own agricultural activity. The Romanian authorities recently took steps to better direct the payments to the farmers. These measures are however only partly effective and many farmers using the land are still excluded from SAPS payments.

The Court found similar cases in **Bulgaria** where the municipalities had created legal entities receiving SAPS aid in relation to public land which local farmers used for grazing their animals. In such cases the entities' activities were limited to providing water for cattle or occasionally hiring workers to clear the land of bushes.

Due to the scheduled increase in SAPS payments per hectare the annual amounts paid to these entities will increase until 2013 or, in Bulgaria and Romania, until 2016. In all cases mentioned above the aid does not support the revenue of a farmer but contributes to financing a public administration.

¹⁷ In relation to application year 2010, state entities received directly some 13,8 million euro for nearly 82 000 ha of land of which more than 27 000 had been declared by the 10 national parks for which SAPS aid of 4,3 million euro was paid to the State Treasury.

TOTAL AREAS ELIGIBLE FOR SAPS AID WERE NOT RELIABLY IDENTIFIED AND MEMBER STATES VISITED DEFINED THE ELIGIBILITY OF PARCELS DIFFERENTLY

MOST MEMBER STATES CONCERNED CANNOT DETERMINE PRECISELY THE AGRICULTURAL AREA ELIGIBLE FOR SAPS

- 25.** While the national budgetary ceilings available for direct payments were established by the Council, it was left to the Commission and the Member States concerned to determine precisely the areas actually eligible for SAPS aid¹⁸.
- 26.** As mentioned above, the Act of Accession and the subsequent Council Regulations provided that the eligible agricultural area shall be that part of the 'utilised agricultural area' (UAA) which was in 'good agricultural condition' (GAC) as at 30 June 2003, whether in production or not at that date.
- 27.** In the case of Bulgaria and Romania this historic reference however does not apply so that the eligible agricultural area is that part of the UAA being in GAC during the application year in question.
- 28.** The UAA criterion excludes from the benefit of SAPS aid non-agricultural areas such as woodland or pleasure gardens but also areas no longer farmed for economic, social or other reasons (including when such areas could be brought back into cultivation using the resources normally available on an agricultural holding). The Court notes that the rules as established to date are incoherent as farmers who want to take parcels back into cultivation in the SAPS Member States that joined the EU in 2004 are excluded from SAPS aid with respect to such parcels while in Bulgaria and Romania farmers received SAPS aid where they farm formerly abandoned land.

¹⁸ The agricultural areas in respect of which SAPS aid may be claimed are laid down in Annex VIII of Commission Regulation (EC) No 1121/2009 of 29 October 2009 laying down detailed rules for the application of Council Regulation (EC) No 73/2009 as regards the support schemes for farmers provided for in Titles IV and V thereof (OJ L 316, 2.12.2009, p. 27). For the application years before 2010 the areas were laid down in Annex XXI of Commission Regulation (EC) No 1973/2004 of 29 October 2004 laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials (OJ L 345, 20.11.2004, p. 1).

- 29.** EU legislation does not further define 'good agricultural condition' (GAC). At the time of the audit only Bulgaria had adopted explicit standards defining GAC.
- 30.** While the provisions adopted in the Acts of Accession required the national authorities to physically identify the eligible agricultural area, most Member States visited had however difficulties in reliably identifying this area. In the absence of a definition of the GAC and because the systems for land parcel identification (LPIS) were either not available or sufficiently developed, Member States used different methods to establish their respective agricultural area.
- 31.** In **Poland**, the eligible agricultural area accepted by the Commission was determined on the basis of global land use information in the 2002 farm survey and complemented by information on 'idle land' which was expected to be taken into agricultural use once farmers became aware that they would receive SAPS payments. By contrast, the areas included in the LPIS were established on the basis of land register information which contained much larger areas but for which no information on their condition in 2003 was available¹⁹.
- 32.** In **Hungary**, the eligible agricultural area accepted by the Commission was determined on the basis of pre-accession land use information and the 2002 farm survey, excluding an estimate of land considered unsuitable for agriculture. The LPIS by contrast is entirely based on the interpretation of aerial images.
- 33.** The above examples also show that the LPIS which registers eligible areas for SAPS aid and which the new Member States use for the management of aid applications²⁰, includes agricultural areas which are sometimes significantly higher than the agricultural area determined and accepted by the Commission at the time of accession. This was still the case in 2010 as shown in the **Table**.

¹⁹ See the **Table**.

²⁰ Article 6 of Commission Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector (OJ L 316, 2.12.2009, p. 65).

34. The Commission has not requested the Member States to analyse such discrepancies. The Court cannot therefore confirm whether the areas recorded as eligible for SAPS payments were actually determined in agreement with the provisions of the Acts of Accession and subsequent EU legislation²¹.

²¹ Article 124(1) of Regulation (EC) No 73/2009.

35. This uncertainty in the area eligible for SAPS aid has two types of consequences:

- (a) as the financial envelopes allocated to each Member State are fixed for the financial period, the average amount per hectare was reduced in proportion where the total areas declared by the farmers exceeded the agricultural area approved by the Commission;
- (b) the average amount of SAPS aid per hectare was increased where the agricultural area approved by the Commission was lower than the actual agricultural area as defined in the LPIS.

TABLE

COMPARISON BETWEEN UTILISED AGRICULTURAL AREA, AGRICULTURAL AREA APPROVED BY THE COMMISSION AND SAPS ELIGIBLE AREAS FOR APPLICATION YEAR 2010

(in hectares)

	Bulgaria	Hungary	Poland	Romania	Slovakia
Utilised Agricultural Area (UAA) 2010 according to Statistical Offices	3 620 000	5 343 000	15 534 000	13 298 000	1 921 000
Agricultural area approved by the Commission (Annex VIII of Regulation (EC) No 1121/2009)	3 492 000	4 829 000	14 137 000	8 716 000	1 865 000
Total SAPS eligible area recorded in LPIS	3 707 125	5 681 781	18 245 374	13 015 446	2 083 248

Source: European Court of Auditors on the basis of data from national Statistical Offices and Paying Agencies (2011).

REVISIONS OF THE ELIGIBLE AGRICULTURAL AREAS WERE NOT ALWAYS BASED ON VERIFIABLE CRITERIA

- 36.** The Commission can approve revisions to the eligible agricultural area of a Member State where it turns out that the one initially established is incorrect. Such adjustments can be made under the condition that the Member State concerned has defined objective and non-discriminatory criteria²².
- 37.** Since 2004, the Commission approved requests for revision of the agricultural areas for Bulgaria, Lithuania, Hungary, Poland and Slovakia. In the case of Bulgaria, Poland and Slovakia the revision resulted in a decrease of the agricultural area and therefore a higher per hectare rate of the SAPS aid. This allowed these Member States to fully use their respective annual financial envelopes. Hungary requested an increase of the agricultural area, because the authorities received aid applications for much larger areas than expected. This resulted in a reduction of the SAPS payments to all farmers to avoid the annual financial envelope being exceeded.
- 38.** The Court found that, while in Bulgaria the revision of the agricultural area partly resulted from the identification of ineligible land, in Hungary, Poland and Slovakia the revision was not based on verifiable criteria other than the fact that the authorities had received aid applications for less or for more agricultural land than expected. As early as 2005 the Commission had already informed the Slovakian authorities that the number of aid applications received in a year and any anticipated increase was not a sufficiently objective criterion for the modification of the agricultural area under SAPS. However, for Hungary, Poland and Slovakia the Commission eventually accepted the requests for revision without further analysis²³.

²² Article 124(1) of Regulation (EC) No 73/2009.

²³ Commission Regulations (EC) No 993/2007 (OJ L 222, 28.8.2007, p. 10), No 316/2009 (OJ L 100, 18.4.2009, p. 3) both amending Regulation (EC) No 1973/2004 and Commission Regulation (EU) No 387/2010 (OJ L 114, 7.5.2010, p. 1) amending Regulation (EC) No 1121/2009 introducing detailed rules for the application of Council Regulation (EC) No 73/2009.

SAPS PAYMENTS ARE MADE IN RELATION TO UNUTILISED OR ABANDONED AGRICULTURAL LAND

- 39.** A particular characteristic of many SAPS Member States is the existence of tracts of unutilised or abandoned agricultural land. This is primarily due to the social and economic changes that occurred after 1990. No SAPS aid should be paid in relation to such land.
- 40.** As pointed out above, Member States had difficulties reliably to identify that part of the UAA which was in GAC as at 30 June 2003. The audits carried out by the Court in the framework of the annual statement of assurance had found that the LPIS often lacked sufficient quality and had not been regularly updated.
- 41.** The Court found that the Commission and the Member States endeavoured to improve the LPIS. For example, in Hungary, the authorities classified between 2008 and 2010 some 891 000 ha as ineligible for SAPS payments, because they had identified the corresponding parcels as having been abandoned or not being suitable for agricultural activity anymore. For Bulgaria and Romania the Commission set up specific action plans which were not fully implemented for the period audited (application year 2010) but which had already led to significant reductions in the initially eligible area. In Slovakia the authorities had identified around 100 000 ha of permanent grassland (around one fifth of the total permanent grassland area) where they had doubts as to whether they are fully in agricultural use and considered reducing the per hectare SAPS payments to take account of the unutilised parts of the parcels.
- 42.** In spite of these efforts, the LPIS of some Member States still includes tracts of abandoned or unutilised land.

BOX 2

PAYMENT OF SAPS AID IN RELATION TO UNUTILISED LAND

In **Romania**, where agricultural areas declared for SAPS have increased since 2007, parcels were considered eligible even where no agricultural activity was carried out (**Picture 1**). The authorities have not yet defined clear and unambiguous conditions under which abandoned land which farmers intend to take back into cultivation becomes eligible.

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Picture 1 — Abandoned land no longer worked in Romania

In **Bulgaria**, the authorities require as a minimum condition for eligibility that permanent grassland be grazed by animals or mown at least once a year. In practice the authorities fully accept however parcels with only very limited or no agricultural activity at all (e.g. parcels just crossed by farm or wild animals). The Court found also examples of SAPS payments in relation to parcels where there was no evidence that any agricultural activity had ever taken place (**Picture 2**).



© European Court of Auditors.

Picture 2 — Unutilised parcel in Bulgaria

In **Poland**, GAEC requirements demand a regular activity on arable land. However the Court found that SAPS aid was paid in relation to unutilised arable land shown in **Picture 3**. Among the beneficiaries visited the Court frequently came across similar situations. SAPS beneficiaries received in most cases full payment or are only subject to very moderate reductions even where the authorities found that they have not used their land for several years.



© European Court of Auditors.

Picture 3 — Former arable land which was not used for several years in Poland

In **Hungary**, apart from an obligation to combat unwanted weeds, farmers are not required to carry out any agricultural activities for their parcels to be eligible. The Court came across cases where farmers rented large tracts of semi-natural grassland and received payments of SAPS aid without using the land at all for farming. In addition, this absence of any agricultural activity adversely affects the environmental value of that type of land (**Picture 4**).



© European Court of Auditors.

Picture 4 — Unutilised semi-natural grassland in Hungary

- 43.** The assessment of whether a parcel is eligible or not for SAPS payments depends on whether and how clearly Member States have further defined the conditions for eligibility and the minimum standards of agricultural activity, how reliably the national authorities can establish the status of that parcel as at 30 June 2003, and how closely they check the situation. Depending on these factors the Court observed a wide range of situations which resulted in an unequal treatment of farmers across the Member States visited.

SAPS PAYMENTS CONTRIBUTE SIGNIFICANTLY TO FARMERS' INCOME BUT THIS SUPPORT BENEFITS MAINLY LARGER FARMS

OVERALL SAPS PAYMENTS SUPPORT FARM INCOME IN THE NEW MEMBER STATES ...

- 44.** SAPS aims to support farmers' income but that objective has not been further defined in terms of the desired level of aid or its distribution.
- 45.** From 2004 to 2010 (financial years 2005 to 2011), farmers in the new Member States received approximately 21,5 billion euro in SAPS payments²⁴. In 2010 there were some 3 million beneficiaries and the average SAPS payment per farm amounted to 1 668 euro²⁵. All Member States applying the SAPS used most of their respective financial envelopes. Overall, the SAPS has thus contributed to raising farmers' income²⁶.
- 46.** The latest analysis of farmers' income carried out by the Commission concludes that, in spite of a strong decline in 2009 which is explained by the current economic crisis, farmers' income in the EU-12 (i.e. the Member States applying the SAPS plus Malta and Slovenia) has stayed well above their level reached before accession. Overall, the income per annual working unit increased by 34 % from 2004 to 2009²⁷. This increase is explained by the higher prices prevailing in the single market and the growth of public support to the farm sector.

²⁴ For amounts paid per financial year and Member State see **Annex II**.

²⁵ See **Annex III**.

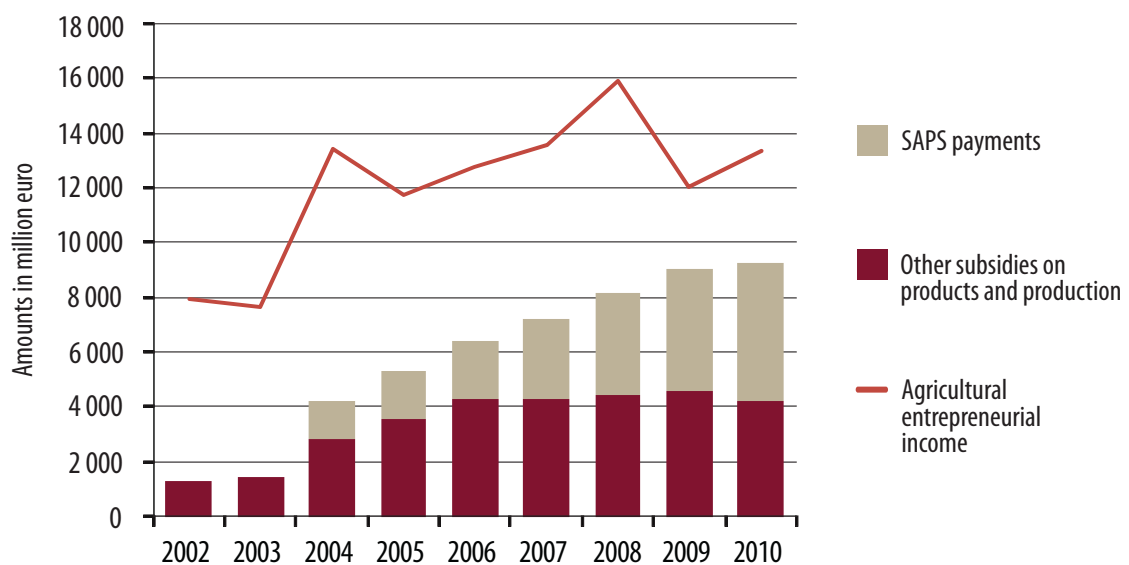
²⁶ To measure the overall level of direct income support to the farm sector, the complementary national direct payments (CNDP) have to be added. According to the Commission they amounted in the same period to 13,4 billion euro.

²⁷ Commission document 'Developments in the income situation of the EU agricultural sector', Brussels 2010, http://ec.europa.eu/agriculture/rica/pdf/hc0301_income.pdf. The income is measured per annual working unit (AWU) which, in simplified terms, corresponds to one person employed on a full-time basis in an agricultural holding.

47. SAPS payments may be considered as the most important element of the net income of farmers in these Member States as shown in **Graph 1**.
48. However, the evolution of farm income varies greatly from Member State to Member State. While in Poland there is an overall positive evolution, in Hungary and Slovakia even with the introduction of SAPS payments there was a substantial decline in the net value added of agricultural production.

GRAPH 1

EVOLUTION OF SAPS PAYMENTS, OTHER SUBSIDIES AND AGRICULTURAL ENTREPRENEURIAL INCOME FOR ALL SAPS MEMBER STATES (VALUES AT CURRENT PRICES)



Source: European Court of Auditors based on Economic Accounts for Agriculture (Eurostat).

... BUT THEIR IMPACT VARIES ACCORDING TO FARM SIZE, TYPE OF FARM AND MEMBER STATE

- 49.** The Court notes that, in all SAPS Member States visited, the area-based nature²⁸ of the scheme combined with the dual structure of the farm sector resulted in a particularly strong concentration of the payments on larger farms while the aid paid to smaller farms was sometimes very low²⁹. A significant number of the farmers do not receive SAPS aid at all, because the eligible area of their holding is too small. This concentration is particularly evident in Bulgaria where in 2010 2 % of the farms received more than half of the national SAPS envelope.
- 50.** There is an inherent contradiction in the design of SAPS aid which is on the one hand intended as a support to individual income and the fact that its distribution takes no account of the specific circumstances of the recipient.
- 51.** Overall, in 2010 98 % of the SAPS beneficiaries received less than 10 000 euro representing 49 % of the total value of payments. Conversely, 0,2 % of beneficiaries received over 100 000 euro representing 24 % of the total value of payments.
- 52.** Contrary to SPS, the legal framework governing SAPS does not provide for an option to differentiate payments within a Member State to better take into account the agricultural potential of regions or environmental criteria. This makes SAPS a simple, easy-to-implement scheme but does not allow for targeting payments to the specific needs of regions.
- 53.** In Hungary, Romania and Slovakia, the Court found that beneficiaries could realise a good return from SAPS payments when renting or buying agricultural land without undertaking active farming, as they do not have to carry out any particular activity on the land. In such cases SAPS payments do not contribute to the Treaty objective of increasing agricultural productivity³⁰.

²⁸ See paragraph 8.

²⁹ For the distribution of SAPS aid see **Annex III**.

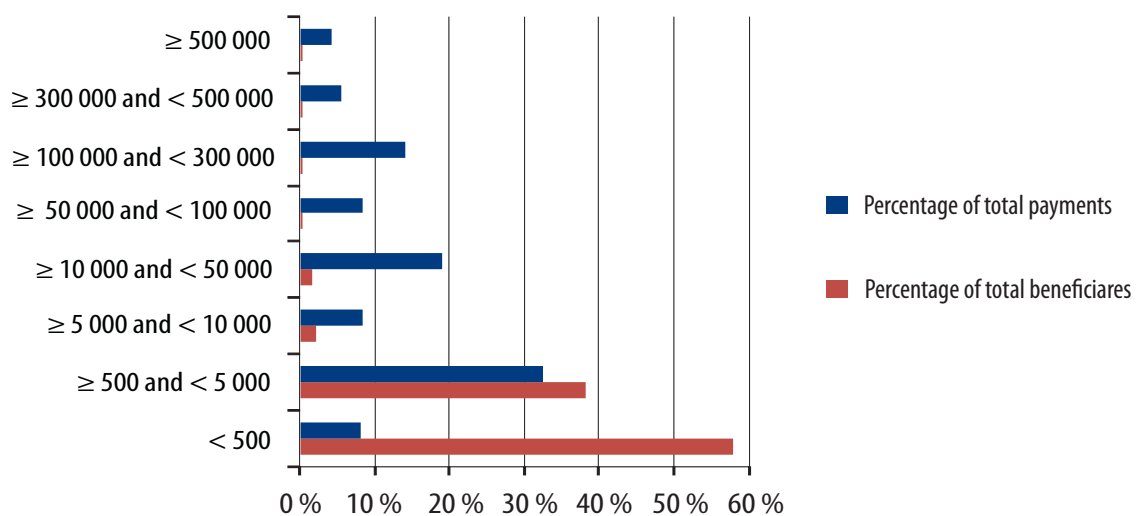
³⁰ Article 39 of the Treaty on the functioning of the European Union.

- 54.** The impact of SAPS aid on farm income varies also significantly between farm types. In particular, with the accession to the EU, animal production suffered a strong decline in many new Member States while many animal breeders had no or very limited access to SAPS aid, because they had no or very little agricultural land.
- 55.** With the option to pay complementary national direct payments, the new Member States could address specific needs. In addition, in 2009, within the framework of the CAP Health Check, the Council opened to Member States the option to use a part of the national SAPS envelope in order to address specific disadvantages affecting certain farmers, e.g. in economically vulnerable or environmentally sensitive areas, or for economically vulnerable types of farming³¹. All new Member States visited made use of this option in one way or another. However, as this possibility became available as from 2010 only, there is no evaluation yet of its impact on the distribution of farmers' income.

³¹ Article 68(1) and Article 131 of Regulation (EC) No 73/2009.

GRAPH 2

DISTRIBUTION OF SAPS INCOME SUPPORT IN 2010 (IN EURO)



Source: European Court of Auditors based on European Commission payment data (CATS).

THE EFFECTS OF SAPS PAYMENTS ON RESTRUCTURING AND INCREASING THE EFFICIENCY OF FARMS HAVE NOT YET BEEN ASSESSED

- 56.** The level of SAPS payments per hectare in the new Member States was established with a view not to hindering the necessary restructuring of the agricultural sector and not to creating considerable income disparities and social distortions in the rural societies. The Commission indicated that 'introducing direct payments at a low level would contribute to stabilising agricultural income without compromising the process of restructuring'³².
- 57.** However, the Commission has not yet analysed the effects of SAPS aid on the restructuring as well as on the productivity and profitability of farms in the new Member States.

STRUCTURAL WEAKNESSES STILL ADVERSELY AFFECT FARM INCOME

- 58.** Various studies as well as the Court's own findings indicate that structural factors such as fragmented land ownership, low technological level of farms, insufficient storage capacities, underdeveloped facilities for food processing, lack of skilled workers or difficult access to financing adversely affect the expected impact of SAPS aid on the modernisation and viability of the farms³³.

OTHER FACTORS REDUCING THE EFFECTIVENESS OF SAPS PAYMENTS

- 59.** The effectiveness of SAPS in supporting farm income can be reduced where the aid is 'capitalised' in land or land lease prices. This means that farmers have to pay higher land prices or higher lease fees only because they receive SAPS support. This reduces the effectiveness of the support and can negatively affect the profitability of farms³⁴.

³² SEC(2002) 95 final of 30 January 2002: Enlargement and Agriculture: Successfully integrating the new Member States into the CAP (paragraph 4.2).

³³ For **Hungary** see for example Udovecz, G., Popp, J., Potori, N., *Hungarian Agriculture under pressure for adjustment*, Budapest, 2007. In 2009 the results of the 2007 analysis were confirmed (*Strategic dilemmas of Hungarian Agriculture and its chances on the market*, Budapest, 2009) and point to existing structural problems and weak competitiveness of the Hungarian agricultural sector. For **Slovakia** see Božik, M. et al., *Economics of sustainable development in agriculture, food sector and rural areas in Slovak Republic*, Bratislava, 2009. In **Romania**, where detailed evaluations of the situation of agriculture are not available, the national authorities mentioned fragmented land ownership which makes it difficult to merge parcels to larger production units and structural problems in the food chain, for example underdeveloped facilities for food processing or food traders relying less and less on domestic produce, as factors making it difficult for many farmers to realise a higher income from agricultural activities.

³⁴ The Court had already noted in another audit that similar effects could be observed following the introduction of the Single Payment Scheme in the EU-15, in particular in the regional model: Special Report No 5/2011.

60. Large areas of agricultural land are leased in Bulgaria, Hungary, Slovakia and, in some regions, in Poland and Romania³⁵. The Commission has not yet specifically assessed the impact which the introduction of SAPS had on land or land lease prices in the new Member States. Available studies indicate however a statistically significant impact of SAPS payments on land rents³⁶, even though the agricultural land markets are not yet fully functioning in all new Member States. The full effects of SAPS payments on land and land lease prices may therefore not yet be fully visible³⁷.

³⁷ There are still national restrictions for lease or acquisition of agricultural land (Hungary, Slovakia, Poland and Romania), lease contracts sometimes run very long (Slovakia) so that effects of the accession to the EU are not yet fully reflected in land prices and rents.

³⁵ In Slovakia, in 2009, 82 % of the UAA was leased in contrast to Romania where the latest available figures (2007) show this rate to be only 17 %.

³⁶ The Hungarian Research Institute for Agricultural Economics (RIAE) calculated that due to the high rate of leased land, landowners benefit also significantly from the support and absorb 31 % of the aid; Kovacs, G. et al., *The efficiency of agricultural subsidies*, Budapest, 2008. This is consistent with another study which covered the Czech Republic, Estonia, Hungary, Lithuania, Latvia, Poland and Slovakia; Ciaian, P., Kancs, D., *The capitalisation of Area Payments into Farmland Rents: Theory and Evidence from the New EU Member States*, Brussels, 2009.

BOX 3

IMPACT OF SAPS PAYMENTS ON LEASE CONDITIONS AND PRICES

In Poland and Hungary the Court observed a particularly strong increase of lease prices for state owned land of low agricultural value such as marginal grassland. Before 2004 sheep breeders traditionally using this land had paid no or very low lease fees but with the introduction of SAPS demand for such land increased. This is not explained by the situation on agricultural markets but by the fact that SAPS payments being proportional to area guarantee a high level of aid in relation to the low productive value of the land. The authorities started organising public tenders for awarding lease contracts which resulted in significantly higher lease fees that affected all farmers working on this type of land.

In Hungary and Romania, the Court identified lease contracts where the lease was directly expressed as a percentage of SAPS and/or complementary national direct payments and was thus increasing proportionally to the evolution of these payments. Leases can for example provide for payment of a fixed price per hectare plus 100 % of the SAPS amount.

The Court also observed that, in Hungary, tenant farmers could only sign or prolong land lease contracts under the condition that they transfer the payment entitlements to be allocated to them in the case of a future introduction of a new support scheme, free of charge, to the owner of the land.

LACK OF PREPARATION FOR A SUPPORT SCHEME BASED ON PAYMENT ENTITLEMENTS

- 61.** Initially, the SAPS was intended to last only until the new Member States were in a position effectively to manage direct payments as they existed in the EU-15 by 2009 at the latest³⁸. In 2006, the Council prolonged the possible duration of the SAPS until the end of 2010³⁹. However, within the 2008 Health Check of the CAP, the Council further extended the transitory period for the introduction of the SPS until the end of 2013. This allowed the Member States to benefit from the advantages of a simple scheme but did not encourage them to prepare for an entitlement-based system.
- 62.** Of the Member States visited during the audit only Hungary took concrete steps to replace the SAPS with the SPS as from 2009. However, following a ruling of the Hungarian Constitutional Court the specific national implementing model could not be put into effect. Since then the national authorities have not taken any further initiatives to introduce the SPS.
- 63.** In October 2011, the Commission proposed a Regulation of the European Parliament and of the Council establishing new rules for direct payments to farmers⁴⁰. According to this proposal, the SAPS as well as the SPS would be replaced by a basic payment scheme as from 2014. This scheme will continue to be based on payment entitlements. Farmers would then have to own payment entitlements as well as declare eligible hectares at their disposal in order to receive payments. Under the shared management system, national administrations would be required to allocate the payment entitlements to farmers in 2014 and manage them in subsequent years.

³⁸ Article 143b(9) of Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (OJ L 270, 21.10.2003, p. 1).

³⁹ Council Regulation (EC) No 2012/2006 of 19 December 2006 amending and correcting Regulation (EC) No 1782/2003 (OJ L 384, 29.12.2006 p. 8).

⁴⁰ COM(2011) 625 final/2 of 19 October 2011.

- 64.** The Court found that, currently, knowledge of entitlement-based systems of direct payments was very poor both in national administrations and among farmers. Neither the Commission nor the national authorities have actively prepared administrations and farmers to change to an entitlement-based system. At the time of the audit, in 2011, the Polish authorities had only started at central level to gain some familiarity with entitlement-based aid (currently SPS) but had not taken steps towards a systematic identification of the technical requirements of the management of such a scheme after 2013. The Bulgarian authorities were preparing an assessment of the impact of a changeover to SPS on the administration and farmers. In Romania the authorities had entered in March 2012 into bilateral discussions with representatives of the Commission and undertaken a consultation of farmers. In Slovakia since 2009 the authorities had only analysed the financial effects of the changeover to the SPS but decided to continue with the SAPS until 2013.
- 65.** When the SPS was introduced in the EU-15 Member States, the national administrations had at least 20 months to prepare the transition from coupled aid to the new scheme. Nevertheless, in its Annual Reports on the financial years 2006 and 2007 the Court observed weaknesses in the implementation of an entitlement-based system which had sometimes resulted in significant delays of the payments to the farmers⁴¹. The Court sees therefore a risk that an insufficient preparation for the introduction of entitlement-based aid would result in similar difficulties in the SAPS Member States.

⁴¹ See Annual Reports concerning the financial year 2006, paragraphs 5.33 to 5.38, the financial year 2007, paragraphs 5.14, 5.21 to 5.25.

CONCLUSIONS AND RECOMMENDATIONS

- 66.** The SAPS is a simple to administer scheme which enabled the new Member States after they joined the EU in 2004 and 2007 to pay income support to their farmers. In being decoupled from agricultural production it has also anticipated the objectives of the 2003 reform of CAP which were to enhance the market orientation of farmers while making payments conditional on respecting cross-compliance requirements.
- 67.** The design and the detailed implementation of the SAPS by the Member States resulted however in a number of questionable features regarding the intended beneficiary of the aid, the identification of eligible areas and the distribution of the support across the farming population. As in the case of SPS, the distribution of the aid among farmers is based on the area of holdings and does neither reflect the specific regional characteristics of farming activity, nor the contribution of farmers to the production of public goods. The impact of SAPS on restructuring the agricultural sector has not yet been assessed and persisting structural weaknesses still negatively affect the income of many farmers. Finally, the Member States currently applying the SAPS were not yet prepared for the introduction of an entitlement-based income support scheme after 2013. Therefore, the Council and Parliament may wish to consider whether such features should be reviewed along the lines set out in the recommendations below, in the context of the preparation of the forthcoming reform of the CAP.

BENEFICIARIES, ELIGIBLE LAND AND AGRICULTURAL ACTIVITIES

- 68.** In its report on the SPS the Court noted the inadequacy of the definition of 'farmers' and the payment of aid to beneficiaries not or only marginally involved in farming. The current audit allows the same conclusions to be drawn with respect to the SAPS. In addition, in some of these Member States SAPS aid was also legally paid to (and supported the income of) public entities managing state land and not otherwise involved in farming.
- 69.** SAPS Member States did not precisely identify eligible areas and payments were made in relation to unutilised parcels or land devoted to non-agricultural activities.

RECOMMENDATION 1

The Court reiterates its recommendation that income support should be directed to the active farmer who conducts concrete and regular agricultural activities. In particular, public entities managing state land and not otherwise involved in farming should be excluded from SAPS income support.

RECOMMENDATION 2

The eligibility of land for aid should be clearly defined and limited to parcels on which GAEC standards require concrete and regular agricultural activities to be carried out. In the event of the introduction of an entitlement-based aid scheme payment entitlements should be allocated only to such parcels.

DISTRIBUTION OF SAPS AID

- 70.** The distribution of SAPS aid is essentially based on the area of agricultural parcels farmed at the disposal of farmers without taking into consideration neither the specific regional characteristics of farming activity, nor the contribution of farmers to the production of public goods.
- 71.** Due to the dual structure of agriculture in most of the new Member States, the large majority of farmers receive only very small amounts of aid while a small number of large beneficiaries absorb most of the aid.

RECOMMENDATION 3

A more balanced distribution of aid between farmers should be sought either by capping higher individual payments or by taking into consideration the specific circumstances of the farms in the different regions.

ROLE OF SAPS AID IN RESTRUCTURING THE AGRICULTURAL SECTOR

- 72.** Since the accession of the new Member States in 2004 and 2007 the level of support has been annually increasing and will continue to do so until 2013 or 2016 respectively. The impact of the current level of aid and future increases on the restructuring of the farm sector and the efficiency of farms is however not yet known.

STRUCTURAL WEAKNESSES AFFECTING FARM INCOME

- 73.** Persisting structural weaknesses in the agricultural economy of SAPS Member States may impact the long-term effectiveness and efficiency of the direct payments.

CAPITALISATION OF PARTS OF THE AID IN LAND AND LAND LEASE PRICES

- 74.** As a result of being strictly related to the area at the disposal of a farmer, SAPS aid may lead to an increase in land and land lease prices and thus reduce the effectiveness of the aid.

RECOMMENDATION 4

The Commission should analyse the extent to which the effectiveness and efficiency of the direct payments is adversely affected by structural weaknesses and land prices. On the basis of such analysis the Commission should consider complementary measures aimed at restructuring the farm sector and making it more competitive.

TRANSITIONAL CHARACTER OF THE SAPS AND THE PREPARATION FOR THE INTRODUCTION OF ENTITLEMENT-BASED AID

- 75.** The SAPS is defined as a transitional system to be replaced by a new entitlement-based scheme. However, most Member States applying the SAPS have not prepared for the introduction of a scheme of this type. Experience from the introduction of the SPS in the EU-15 Member States shows that the implementation of entitlement-based aid resulted in significant delays in the payments to the farmers.

RECOMMENDATION 5

The Commission should actively support the Member States and more closely monitor their preparations for the introduction of a future entitlement-based scheme. In particular, it should assist Member States in identifying key requirements for national administrations and farmers.

This Report was adopted by Chamber I, headed by Mr Ioannis SARMAS, Member of the Court of Auditors, in Luxembourg at its meeting of 10 October 2012.

For the Court of Auditors



Vítor Manuel da SILVA CALDEIRA
President

COMPARISON BETWEEN THE SAPS AND THE SINGLE PAYMENT SCHEME (SPS)

Both SPS and SAPS are designed to provide income support to farmers. In both cases the areas of agricultural land on which the payment is based must be at the farmers' disposal on a specific date in each application year and must be maintained in GAEC (as defined in Regulation (EC) No 73/2009).

However, there are two main differences between SPS and SAPS:

(a) Payment entitlements

Under the SPS, aid is determined by two sets of requirements (i) the number of eligible hectares one has at one's disposal **and** (ii) the value of the payment entitlements held. Payment entitlements give right to a fixed amount of aid per hectare. In most cases, the value of each payment entitlement reflects the value of direct aid granted during a historical reference period. Payment entitlements may be traded independently of the land.

By contrast, SAPS aid is determined as a flat rate payment per hectare calculated annually by dividing the national financial envelope by the utilised agricultural area in the Member State concerned and there are no payment entitlements.

(b) Definition of eligible agricultural land: GAC and GAEC

Under the SPS, payments are made in relation to any agricultural area of a holding that is used for an agricultural activity (which includes maintaining it in GAEC).

In contrast, under SAPS, the eligible agricultural area is that which is actually utilised and that was in good agricultural condition (GAC) as at 30 June 2003. The concept of GAC was not further defined in the regulation. For all practical purposes it was only used at the time of accession as way of excluding from the UAA parcels that were abandoned as at June 2003 and preventing farmers from claiming aid in relation to such land that they would have brought back into cultivation **after** that date. It is therefore merely a historical concept which no longer serves any practical purpose with the two exceptions mentioned hereafter.

In the cases of Bulgaria and Romania, the Act of Accession did not mention the 30 June 2003 time limit and, in principle, GAC must be observed each year.

GAC standards have been defined only in Bulgaria. In Romania, the authorities did not define GAC with the consequence that unutilised areas were not excluded from the agricultural area.

For all practical purposes, GAEC is now the pertinent concept as farmers must respect GAEC obligations in order to be entitled to the full payment of either SPS or SAPS aid.

INCOME SUPPORT PAID UNDER THE SAPS IN THE FINANCIAL YEARS FROM 2005 TO 2011

(in million euro)

Financial year	Bulgaria	Czech Republic	Estonia	Cyprus	Latvia	Lithuania	Hungary	Poland	Romania	Slovakia	TOTAL
2005	0,0	212,4	21,2	7,9	25,1	81,8	316,0	702,0	0,0	82,8	1 449,2
2006	0,0	255,5	27,8	13,6	38,4	103,3	373,4	807,1	0,0	102,2	1 721,3
2007	0,0	309,6	35,1	16,9	48,4	128,2	445,4	977,3	0,0	122,0	2 082,9
2008	166,3	354,7	40,5	19,4	55,5	146,3	508,3	1 123,9	420,1	139,5	2 974,5
2009	208,5	437,3	50,6	24,6	69,5	183,5	639,4	1 401,6	528,8	179,7	3 723,5
2010	272,1	517,0	60,6	28,7	83,6	220,1	771,1	1 671,6	611,0	225,2	4 461,0
2011	289,7	580,6	70,5	29,9	95,1	261,1	831,7	1 962,5	698,5	264,8	5 084,4
TOTAL	936,6	2 667,1	306,3	141,0	415,6	1 124,3	3 885,3	8 646,0	2 258,4	1 116,2	21 496,8

Source: EAGF Annual Reports on Financial Years 2005–11.

DISTRIBUTION OF INCOME SUPPORT UNDER THE SAPS (APPLICATION YEAR 2010)

Annual payment of SAPS support (in euro)	Number of beneficiaries	Bulgaria	Czech Republic	Estonia	Cyprus	Latvia	Lithuania	Hungary	Poland	Romania	Slovakia
< 500	1 761 219	63 377	3 822	5 662	22 373	33 144	92 613	58 940	520 945	954 443	5 900
≥ 500 and < 5 000	1 164 925	21 359	12 724	8 167	8 779	29 128	68 918	94 003	801 055	114 179	6 613
≥ 5 000 and < 10 000	62 135	2 608	3 174	908	598	1 522	4 773	11 170	30 515	6 055	812
≥ 10 000 and < 50 000	46 706	2 952	3 776	1 101	420	1 174	3 348	11 469	13 450	7 699	1 317
≥ 50 000 and < 100 000	6 060	862	818	164	17	132	259	1 031	1 267	1 125	385
≥ 100 000 and < 300 000	4 396	529	1 170	90	4	45	145	771	566	440	636
≥ 300 000 and < 500 000	746	26	303	6	0	2	10	184	56	30	129
≥ 500 000	287	15	105	0	0	0	2	77	20	21	47
TOTAL	3 046 474	91 728	25 892	16 098	32 191	65 147	170 068	177 645	1 367 874	1 083 992	15 839

Source: European Court of Auditors based on European Commission payment data (CATS).

REPLY OF THE COMMISSION

EXECUTIVE SUMMARY

I.

As a transitional scheme, SAPS has been designed along the same principles as SPS but with the absence of entitlements. Originally, the transition period was to end at the end of 2006, but at the new Member States' request it could be extended by two years until the end of 2008 at the latest. In the meantime it was extended until the end of 2013.

SAPS was meant to be a 'simplified scheme' to allow the new Member States to manage direct payments with simpler rules.

IV.

The Commission is addressing this issue in the legislative proposals on the CAP towards 2020 (a definition of an active farmer).

The SAPS is a decoupled scheme, and hence it entails no production requirement. Any farmer receiving support must however perform an agricultural activity. Following Council Regulation (EC) No 73/2009 this implies that he should at least maintain his land in good agricultural and environmental condition (GAEC). In this context, a farmer should not be considered as having no agricultural activity simply because he does not maintain a certain production level.

From 2010, Member States have had the possibility to exclude from the benefit of direct payment natural or legal persons whose agricultural activities form only an insignificant part of their overall economic activities or whose principal business or company objectives do not consist of exercising an agricultural activity.

REPLY OF THE COMMISSION

V.

The Commission takes note of the Court's finding on identification of eligible parcels. However, new Member States used the best available information at the time of establishing their land parcel identification system (LPIS). With audit missions and Action Plans the Commission supported new MS in their effort to improve the quality of the information in their LPIS. The definition of land eligible for SAPS obliges new MS to exclude from the payment unutilised agricultural land (not farmed for various reasons, e.g. economic or social factors).

Whenever Commission audits find ineligible land in the land parcel identification systems, deficiencies found are followed up in the context of clearance of accounts.

VI.

As for the SPS, there is no quantified link between SAPS support and costs incurred by farming activity including provision of public goods. SAPS is an area-based flat-rate payment whose main objective is to provide basic income support. Through the obligation to keep land in GAEC, SAPS contributes to the protection of natural resources thus providing the basis for the delivery of public goods through agriculture. This has been noted in particular in the study on public goods of the Institute for European Environmental Policy (IEEP)¹.

There is a highly heterogeneous picture in the EU-12 in what concerns farms' dimensions. Since SAPS is an area-based payment it follows that large farms receive higher payments. In addition, specific problems in sensitive sectors and regions were considered by new MS when granting Complementary national direct payments (CNDPs) and specific support respectively.

The legislative proposals on the CAP towards 2020 acknowledge the need to introduce the definition of an active farmer as well as the concept of the redistribution of support between Member States and farmers.

¹ Cooper, T., Hart, K. and Baldock, D. (2009), *The Provision of Public Goods Through Agriculture in the European Union*, Report for DG Agriculture and Rural Development, Contract No 30-CE-0233091/00-28, Institute for European Environmental Policy, London.

VII.

The possibility to regionalise SAPS payments does not exist, as SAPS is a transitory scheme towards SPS regional payments. Hence, in case a Member State would have liked to differentiate the level of payments between regions, it could have done so by introducing the SPS or since 2010 through the specific aid under Article 131 of Regulation 73/2009. Besides, measures under rural development programmes (Less-favoured Areas payments) exist to support disadvantaged regions.

VIII.

The level of direct payments in the Member States is the result of a political compromise, which was, however, based on clearly defined criteria and historic reference periods. It is the phasing-in of the SAPS payments that has been proposed in view of avoiding distortions between different economic sectors.

The CAP instruments are continuously analysed by the Commission, in particular via policy evaluations. As far as the direct payments are concerned, evaluation of the different impacts has been divided by subject. An evaluation of the income effect of direct support has been published in 2011² and an evaluation is now ongoing on the structural effect of direct support. Results are expected for the end of the second semester 2013. SAPS being a derogation to SPS, its effects are assessed together with the SPS in the framework of this evaluation.

IX.

The capitalisation of support into land prices in a regional model of SPS or in SAPS may be indeed higher than in a historic model. The functioning of land markets in the EU Member States under the influence of measures applied under the CAP was assessed in a study ordered by the Commission services³. Nevertheless, among factors influencing land prices, CAP subsidies have a rather modest impact. In addition it does not necessarily mean an increase in capitalisation as compared to former coupled forms of support.

² http://ec.europa.eu/agriculture/eval/reports/income/index_en.htm

³ http://ec.europa.eu/agriculture/analysis/external/landmarkets/index_en.htm

REPLY OF THE COMMISSION

X.

Regulation 73/2009 in Article 122(3) established that SAPS must be available until 31 December 2013. It follows that with new CAP, SAPS will cease to exist and new Member States have been aware of this condition already since January 2009 when the regulation was published.

New Member States can decide every year to introduce the standard scheme (SPS) and the Commission held several technical consultations with some interested new Member States on this issue. It is however the responsibility of a Member State to judge advantages and disadvantages of such a decision. The structure of the farming community varies extensively across Member States as well as their administrative capacity.

XI. Common reply to indent 1 and 2

Criteria such as **'concrete and regular agricultural activity'** could link the level of support to the performance by the beneficiary of an actual production obligation which would not be compatible neither with the CAP targets for achieving greater market orientation through decoupled direct payments, nor with the WTO 'green box' conditions. In addition, diversification of activities is a valuable alternative to limited growth opportunities within the farm sector.

Under the current legislation (Article 2 of Regulation (EC) No 73/2009) any natural or legal person exercising an agricultural activity might receive direct payments. However, Member States have a possibility to restrict access to direct payment by applying Article 28(2) of that Regulation. Besides, it has to be noted that it is Member States obligation to establishing minimum requirement for GAEC.

The issue is addressed in the Commission proposals for the CAP towards 2020 through the definition of an active farmer and agricultural activity.⁴

⁴ Proposal for a Regulation of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy, Article 9 and Article 4 respectively.

XI. Reply on indent 3

The Commission's legislative proposals aim at a more balanced distribution of aid through several measures such as progressive reduction and capping of direct payments, flexibility between pillars, regional allocation of national ceilings, convergence of the value of payment entitlements and small farmers scheme. Under the new policy, all MS (including current SAPS countries) will have the option to regionalise the payments taking into account agronomic and economic characteristics and their regional agricultural potential.

XI. Reply on indent 4

The issue has been analysed in a study on the functioning of land markets⁵, in the CAP Health Check — Impact Assessment⁶, and a further study on market factors is currently under way in the RTD 7th Framework Programme.⁷

By providing an effective income insurance and minimum stability of revenue SAPS support helps farmers to mitigate adverse effects of such structural factors.

XI. Reply on indent 5

It is the responsibility of the Member States to take a decision on implementation of the SPS and to request consultation from the Commission. The Commission services are available for consultations and assistance if there is a need and upon a request from the Member State interested. The Commission has to respect the subsidiarity principle and cannot intervene in the Member States' competences.

⁵ Study on the Functioning of Land Markets in the EU Member States under the Influence of Measures Applied under the common agricultural policy, Final report November 2008, http://ec.europa.eu/agriculture/analysis/external/landmarkets/index_en.htm

⁶ CAP HEALTH CHECK — IMPACT ASSESSMENT NOTE N° 1 http://ec.europa.eu/agriculture/healthcheck/ia_annex/c1_en.pdf

⁷ Comparative Analysis of Factor Markets for Agriculture across the Member States, http://cordis.europa.eu/search/index.cfm?fuseaction=proj.document&PJ_RCN=11351201. The Factor Market project started on 1.9.2010 and will end on 31 August 2013.

REPLY OF THE COMMISSION

INTRODUCTION

7.

According to the Treaty of Accession, the SAPS was available for the new MS until the end of 2006 with the possibility of renewal twice by one year (till the end of 2008) at the new MS request.

OBSERVATIONS

20.

Only farmers within the definition laid down in Council Regulation (EC) No 73/2009 (persons exercising an agricultural activity) qualify for the support. The definition reflects the decoupled nature of the scheme and the objective of promoting farmers' market orientation while ensuring compliance with the WTO 'green box' conditions. Production obligations or links to production factors may not be imposed as eligibility criteria.

Nonetheless, landowners without agricultural activity and non-farmers are not eligible for the payments.

In this context, situations of farmers who only fulfil the GAEC thus having only limited agricultural activity can arise. However, it has to be reminded that MS are obliged to establish minimum requirements for GAEC.

This issue has been addressed in the Commission legislative proposals on the CAP towards 2020 by proposing the definition of an active farmer.

Whenever Commission audits find ineligible land in the land parcel identification systems, deficiencies found are followed up in the context of the clearance of accounts.

21.

Member States must assess whether the characteristics of the land use do not prevent agricultural use.

The mentioned examples of beneficiaries are considered according to current EU legislation (Article 2(a) of Regulation 73/2009) to be farmers as long as they exercise an agricultural activity. These farmers are entitled to SAPS payment if the eligibility conditions are fulfilled.

Nevertheless, according to Article 28(2) of Regulation 73/2009 Member States have the option to exclude farmers marginally involved in farming from SAPS benefits.

Whenever Commission audits find ineligible land in the land parcel identification systems, deficiencies found are followed up in the context of the clearance of accounts.

22.

The definition of agricultural activity reflects the objective of promoting farmers' market orientation while ensuring compliance with the World Trade Organisation (WTO) 'green box' rules. The SAPS is decoupled from production and compliant with the WTO 'green box' rules, therefore production obligations or links to production factors may not be imposed as eligibility criteria. In this context farmers may decide to 'maintain the land in GAEC' instead of producing agricultural products.

The main objective of decoupling is market orientation and in general, farmers, as entrepreneurs, are actively farming in order to generate an income from the selling of their products and possibly other activities. The decision not to produce is also a market-oriented behaviour if variable production costs are not covered.

The Commission is however of the opinion that the majority of the agricultural land under SAPS is used for production and the beneficiaries with limited activities represent only a small percentage of the total SAPS area.

See also the Commission reply to paragraph 20.

REPLY OF THE COMMISSION

Box 1

The Commission is addressing further this issue in its legislative proposals on the CAP towards 2020 by providing a definition of an active farmer.

Under the current legislation (Article 2 of Regulation (EC) No 73/2009) any natural or legal person exercising an agricultural activity might receive direct payments. However, Member States have a possibility to restrict access to direct payment by applying Article 28(2) of that Regulation. Besides, it has to be noted that it is Member States obligation to establishing minimum requirement for GAEC.

Whenever Commission audits find ineligible land in the land parcel identification systems, deficiencies found are followed up in the context of the clearance of accounts.

23.

When discussing further targeting of direct support during the Health Check, the Council considered that flexibility should be given to Member States to consider, in accordance with the principle of subsidiarity and according to their specific economic realities, which are the right parameters to be taken into account for the application of this possibility (to exclude from direct payments 'natural or legal persons whose agricultural activities form only an insignificant part of their overall economic activities or whose principal business or company objects do not consist of exercising an agricultural activity'). This is further addressed in the Commission legislative proposals on the CAP towards 2020 through the definition of an active farmer.

24.

Utilised agricultural area shall mean total area taken by arable land, permanent grassland, permanent crops and kitchen gardens as established by the Commission for its statistical purposes. Following this definition, if agricultural land is no longer farmed for any (economic, social) reason, it shall be included within the category 'other land' as not eligible for SAPS. It is the MS responsibility to assess whether the characteristics of the land do not prevent an agricultural use.

Whenever Commission audits find ineligible land in the land parcel identification systems, deficiencies found are followed up in the context of the clearance of accounts.

28.

For Bulgaria and Romania the historical reference to the land which was in 'good agricultural condition' was dropped due to the specific structure of agricultural sectors before the accession. Due to various reasons (fragmented parcels, unclear ownership and lack of capital), large areas of agricultural land were still not cultivated at the date of accession. Therefore, it was decided to apply the condition of land in GAC on an annual basis.

REPLY OF THE COMMISSION

Common reply to paragraphs 30–32

New Member States used the best available information at the time of establishing their land parcel identification systems (LPIS). The Commission audits carried out in 2004 concluded that the LPIS systems were generally operational in Slovakia, Poland and Hungary. The information on eligible agricultural areas recorded in the LPIS was not always fully accurate but with the audit missions and Action Plans in Bulgaria and Romania the Commission supported the new MS in their effort to improve the quality of the information in their land parcel identification systems.

33.

The agricultural area for SAPS as approved by the Commission is the one the new MS have estimated (using objective criteria) before the accession as the potential eligible area that will be claimed. In LPIS, the total agricultural area is recorded; however, not all this area is finally claimed by the farmers (due to various reasons, e.g. process of land restitution, fragmented parcels, access to the land, etc.). Therefore, the area approved by the Commission may be lower than the total agricultural area recorded in the LPIS.

34.

The difference between agricultural area under SAPS as established in Annex VIII of Regulation (EC) 1121/2009 and the maximum eligible area for SAPS recorded in the LPIS can be explained. Therefore, the Commission did not consider it necessary to request the MS to analyse this discrepancy.

See also reply to paragraph 33.

35. Common reply to (a) and (b)

The concept of application of a reduction coefficient is a standard mechanism to avoid that the budgetary ceilings are exceeded. There is no uncertainty since Member States can communicate to the farmers well in advance the maximum amount of SAPS payment per hectare they will be entitled to (= the division of the budgetary allocation available and the agricultural area under SAPS as established in Annex VIII of Regulation (EC) 1121/2009) as well as the estimated possible reduction on the basis of the data from aid applications.

38.

Each request for the revision of utilised agricultural area has been analysed by the Commission taking into account the existence of objective criteria (e.g. size of agricultural holdings, experience from aid applications over the previous years, update of LPIS system, etc.). Long-term experience from aid applications is considered as one of the objective criteria.

In 2005 the Slovak Republic authorities requested amendment of utilised agricultural area (UAA) on the basis of aid application for SAPS in 2004 only (one year data). The Commission did not find the request sufficiently justified due to the specific situation in the Slovak Republic in that period (disputes of land ownership) and limited experience with SAPS. However, in November 2008 the Slovak Republic re-submitted the request to adjust utilised agricultural area on the basis of already four years experience with SAPS aid applications, which was accepted by the Commission.

39.

Abandoned land is one of the reasons for ineligibility of land. The Commission audits find regularly ineligible land in the land parcel identification systems and deficiencies found are followed up in the context of the clearance of accounts.

40.

Deficiencies found during audits are followed up in the context of the clearance of accounts.

REPLY OF THE COMMISSION

41.

Commission audits in Hungary have confirmed that the quality of the LPIS has improved over the past years.

For Romania, the Commission decided in 2012, on the basis of its audits carried out in 2011, to lift its reservation concerning IACS on the grounds that the Romanian action plan was completed, properly implemented and the system was operational of sufficient quality for claim year 2011. An audit of the implementation of the revised IACS system will be carried out as part of the normal audit programme in 2012.

For Bulgaria, a detailed IACS action plan was developed and was completed in November 2011 as planned. However, while audits carried out (end of 2011, beginning of 2012) considered the work done to be appropriate, the Commission had not yet sufficient assurance that the application of the new elements in the handling of the 2012 claims would work properly. As a consequence, the reservation was not lifted.⁸

42.

Any deficiencies found are followed up in the context of the clearance of accounts.

43.

There may be specific cases in which eligibility of land for direct payments is not so obvious. To address this issue, the Commission prepared a questionnaire and a discussion paper which reflected the exchange of views with MS. The discussion paper (DS/2010/04 rev1) concluded (from the questionnaires and the discussion) that the eligibility of areas is **'undoubtful in the vast majority of cases and the assessment is without problem for neither controllers nor farmers'**.

⁸ AAR2011 - http://ec.europa.eu/atwork/synthesis/aar/doc/agri_aar_2011.pdf - page 75.

The decision of the farmer to continue agricultural production on the eligible hectares or simply maintain the area in GAEC should be a result of the conditions of the market and not of the support. The definition of national standards by Member States does not necessarily entail that an activity aiming at maintaining or increasing the agricultural production is expected from the farmer. The Eurostat definition excludes the abandoned land from being part of utilised agricultural area. In the Commission legislative proposals on the CAP towards 2020 through the definition of the active farmer better targeting of the aid shall be achieved.

Box 2

According to Article 143b (4) of R.1782/2003 (Article 124 of R73/2009) the agricultural area under the SAPS shall be the part of its utilised agricultural area which is maintained in good agricultural condition, whether in production or not, where appropriate adjusted in accordance with the objective criteria to be set by Bulgaria or Romania after approval by the Commission. For Bulgaria the national GAC criteria for pasture land was whether the land is suitable for grazing. Therefore any land being in good agricultural condition is eligible for SAPS payments in Bulgaria.

Romanian authorities have set up guidelines to classify the abandoned land. Furthermore, in the framework of the Romanian Action Plan they checked more than 11 000 reference parcels that were considered potentially abandoned to verify its eligibility conditions.

The Commission audits find regularly ineligible land in the land parcel identification systems and deficiencies found are followed up in the context of the clearance of accounts.

44.

SAPS is an area-based flat-rate payment whose main objective is to provide basic income support.

REPLY OF THE COMMISSION

46.

The increase per AWU, besides higher prices and public support, came also from a reduction in the work force during the period.

47.

To fully describe the situation, also market revenues should be taken into account in assessing the role of SAPS payments.

48.

In 2004, when SAPS was introduced, net value added increased in the EU-10, but also in the EU-15. Later net value added varied without a clear link to SAPS implementation.

49.

SAPS has been designed as an area aid without a need to declare farmers income. The financial amount corresponds to the eligible hectares. In addition, new Member States can target specific groups of farmers/sectors via CNDPs (and specific support). The income situation of small farmers is addressed in the legislative proposals on the CAP towards 2020.

The Commission's legislative proposals on the CAP towards 2020 include an element of progressive reduction and capping of the direct payments which will allow a limitation of the payments made to farmers.

50.

In a decoupled support system set up to encourage farmers towards more market orientation to adjust the support level to e.g. income level of the farmers would be detrimental to the objective. Also as income level is closely linked to production level and type, World Trade Organisation (WTO) 'green box' rules would certainly not be met.

However, The Commission acknowledges that distribution of support between farmers needs to be more targeted and it is therefore a core issue of the Commission's legislative proposals for the CAP towards 2020, pointing for instance young farmers, small farmers, areas with natural constraints, etc.

51.

There is a highly heterogeneous picture in the EU-12. Since SAPS is an area payment, it follows that farms that are large in terms of hectares receive higher payments which are not necessarily accompanied with high production.

The redistributive effect is apparent even under SPS where⁹ decoupled aids are granted to 82 % of beneficiaries receiving less than 10 000 euro but represent only 24 % of the total value of payments.

Often the 0,2 % includes large cooperatives composed of many smaller farms.

It was agreed by the Council that the concept of modulation (progressive reduction of direct payments) is applicable for new MS only when the level of direct payments is at least equal to that level in other Member States.

The issue of appropriate distribution pattern of aid among holdings of different sizes is addressed in the Commission's legislative proposals on the CAP towards 2020 through progressive reduction and capping of the payment and specific scheme for small farmers.

52.

In order to preserve the simplicity of the scheme, SAPS does not allow regionalisation of the scheme. However, new Member States are allowed to grant CNDPs on sectoral bases as a compensation for phasing-in. This tool together with the support under Article 131 (specific support) allows for addressing specific needs of the farmers in sensitive sectors (e.g. animal producers without agricultural areas). In addition to SAPS, support under the rural development programmes exists to target farmers in disadvantaged areas (LFA payments).

⁹ CATS 2010 data.

REPLY OF THE COMMISSION

53.

SAPS is a decoupled scheme, and hence there is no production requirement. In this context, a farmer should not be considered as having no agricultural activity simply because he does not maintain a certain production level. However, any farmer receiving support must perform an agricultural activity which means that he should at least maintain his land in GAEC.

Even if the land is only kept in GAEC, SAPS contributes to the protection of natural resources thus providing the basis for the delivery of public goods through agriculture. It is irrelevant to introduce agricultural production as a criterion since it would be against the decoupled nature of the payments and it would not be compatible with the WTO 'green box' conditions.

The issue was addressed in the Health-Check by introducing Article 28(2) of Regulation 73/2009. By this, MS may exclude beneficiaries whose agricultural activities form only an insignificant part of their overall economic activities or who do not exercise any agricultural activity at all. This is further addressed in the Commission legislative proposals on the CAP towards 2020 through the definition of an active farmer.

54.

New Member States are allowed to grant CNDPs on sectoral bases as a compensation for phasing-in. This tool together with the support under Article 131 (specific support) allows addressing specific needs of the farmers in sensitive sectors (e.g. animal producers without agricultural areas).

55.

The DG Agriculture and Rural Development Evaluation Plan foresees that Article 68 measures will be evaluated in 2013/2014. This will give the Commission a full set of implementing data, including the report to be provided by the Member States by 1 October 2012, and allow to address the modifications introduced by the Member States on 1 August 2011.

The Commission reminds that Article 68 also allows Member States to use part of their SAPS envelope to grant specific support by implementing eight other categories of measures.

57.

The CAP instruments are continuously analysed by the Commission, in particular via evaluations of policy tools. As far as the direct payments are concerned, evaluation of the different impacts has been divided by issue.

An evaluation of the income effect of direct support have been published in 2011 and the Commission is currently undertaking an external evaluation on the structural effects of the direct support which will examine the effect of direct support schemes, including SAPS, on different aspects of farm structure.¹⁰ The evaluation is planned to be completed in autumn 2013.

SAPS being a transitional scheme to SPS, its effects are assessed together with the SPS in the framework of those evaluations.

58.

In addition, other CAP instruments such as rural development support and farm advisory system are available to farmers to help tackling most of the issues mentioned by the Court. Those measures are designed and chosen by the Member States among a wide range of possibilities to fit their needs in terms of farm modernisation, training of employees, etc. On the land policy itself, ownerships and fragmentation, the action of the Commission is reduced as it is not in its field of competencies.

By providing an effective income insurance and minimum stability of revenue SAPS support helps farmers to mitigate adverse effects of such structural factors.

¹⁰ In particular, the evaluation should examine the impacts of direct support on farm structures (size, number, land use, livestock numbers), maintenance of farming in marginal areas, impacts on labour force, capital and farm business strategies.

REPLY OF THE COMMISSION

59.

The Commission does not fully share the Court's view. The external study on land markets indicates the level of the capitalisation varies among countries and regions as a result of differences in their land market structure. Since the 'subsidy' effect influences not only input but also the output prices, impacts on the profitability of farming is not uniform and difficult to assess.

If SAPS are capitalised in the value of land, and the farmer is a landowner, any capitalisation of the SAPS directly increases the value of his/her assets. On the other hand, if a farmer rents the land, SAPS payments would compensate for any capitalisation on land rentals and at most be neutral compared to a situation without SAPS. Furthermore, it should be recalled that many operators who rent out their land are themselves farmers.

60.

The Commission has analysed the impact of the support on land prices (just to mention a few — Impact assessment under the Health check, impact assessment for CAP 2020 proposals and an external study on land market in EU have been commissioned at the Commission's initiative).

The capitalisation of support into land prices in a regional model of SPS or in SAPS may be indeed higher than in a historic model. This has been in particular assessed in a study ordered by Commission services¹¹. Nevertheless, among factors influencing land prices, CAP subsidies have a rather modest impact. Indeed, developments in land prices are the result of a complex interplay of a variety of influencing factors, and the agricultural support system is only one among them. In addition it does not necessarily mean an increase in capitalisation as compared to former coupled forms of support. Caution is therefore needed when drawing conclusions of the exact effect of the SAPS system on the price of agricultural land.

Box 3

Land policy is not an EU competency. Furthermore, the Commission has no right to intervene on private arrangements resulting from negotiations between farmers and owners.

¹¹ Study on the Functioning of Land Markets in the EU Member States under the Influence of Measures Applied under the common agricultural policy, 2008 http://ec.europa.eu/agriculture/analysis/external/landmarkets/index_en.htm

61.

The extension of SAPS was a result of the request of the new Member States on the political level.

According to the Treaty of Accession, the SAPS was available for the new Member States until the end of 2006 with the possibility of renewal twice by one year (until the end of 2008) at the request of the new Member States on the political level.

Regulation 73/2009 in Article 122(3) established that SAPS must be available until 31 December 2013. It follows that with new CAP SAPS will cease to exist and new Member States have been aware of this condition already since January 2009 when the regulation was published.

64.

SAPS has never been presented as a permanent scheme but as a derogation from the EU scheme available to the new Member States before their transfer to the SPS.

New Member States have every year the option to terminate application of SAPS and introduce the standard EU scheme. Discussions and several technical consultations were held between the Commission and authorities of new Member States who had considered the introduction of SPS in the past. It is however the responsibility of the new MS to judge advantages and disadvantages of such a decision to terminate SAPS and to set up appropriate administrative structures according to the EU legislation.

Regulation 73/2009 in Article 122(3) established that SAPS must be available until 31 December 2013. It follows that with the new CAP, SAPS will cease to exist and new Member States have been aware of this condition already since January 2009 when the regulation was published.

65.

It is the responsibility of Member States to take a timely decision on the implementation of the SPS.

See also reply to paragraph 64.

REPLY OF THE COMMISSION

67.

The distribution of SAPS among farmers does reflect farm structural characteristics — and it is proportional to farmers' contribution to the maintenance of area in GAEC, thus contributes to the protection of natural resources and therefore provides the basis for the delivery of public goods through agriculture.

As for the SPS, there is no quantified link between SAPS support and costs incurred by farming activity including provision of public goods.

Member States who wanted to differentiate the level of payments between regions, could have done so by introducing the SPS or since 2010 through the specific aid. Besides, measures under rural development programmes (Less-favoured Areas payments) exist to support disadvantaged regions.

By providing an effective income insurance and minimum stability of revenue SAPS support helps farmers to mitigate adverse effects of such structural factors.

An evaluation of the income effect of direct support have been published in 2011 and the Commission is currently undertaking an external evaluation on the structural effects of the direct support which will examine the effect of direct support schemes, including SAPS, on different aspects of farm structure.

New Member States can decide every year to introduce the standard scheme (SPS) and the Commission held several technical consultations with some interested new Member States on this issue. The Commission services are available for consultations and assistance if there is a need and upon a request from the Member State interested.

68.

The definition of agricultural activity reflects the objective of promoting farmers' market orientation while ensuring compliance with the WTO 'green box' rules. The SAPS is decoupled from production and compliant with the WTO 'green box' rules, therefore production obligations or links to production factors may not be imposed as eligibility criteria. In this context farmers may decide to 'maintain the land in GAEC' instead of producing agricultural products.

The main objective of decoupling is market orientation and in general, farmers, as entrepreneurs, are actively farming in order to generate an income from the selling of their products and possibly other activities. The decision not to produce is also a market-oriented behaviour if variable production costs are not covered.

The Commission is however of the opinion that the majority of the agricultural land under SAPS is used for production and the beneficiaries with limited activities represent only a small percentage of the total SAPS area.

When discussing further targeting of direct support, during the Health Check the Council considered that flexibility should be given to Member States to consider, in accordance with the principle of subsidiarity and according to their specific economic realities, which are the right parameters to be taken into account for the application of the possibility to exclude from direct payments 'natural or legal persons whose agricultural activities form only an insignificant part of their overall economic activities or whose principal business or company objects do not consist of exercising an agricultural activity'. This is further addressed in the Commission legislative proposals on the CAP towards 2020 through the definition of an active farmer.

REPLY OF THE COMMISSION

69.

The Commission audits find regularly ineligible land in the land parcel identification systems and deficiencies found are followed up in the context of the clearance of accounts.

Common reply to recommendation 1 and 2

Criteria such as 'concrete and regular agricultural activity' could link the level of support to the performance of the beneficiary of an actual production obligation which would not be compatible neither with the CAP targets for achieving greater market orientation through decoupled direct payments, nor with the WTO 'green box' conditions. In addition, diversification of activities is a valuable alternative to limited growth opportunities within the farm sector.

Under the current legislation (Article 2 of Regulation (EC) No 73/2009) any natural or legal person exercising an agricultural activity might receive direct payments. However, Member States have a possibility to restrict access to direct payment by applying Article 28(2) of that Regulation. Besides, it has to be noted that it is Member States' obligation to establish minimum requirement for GAEC.

The issue is addressed in the Commission proposals for the CAP towards 2020 through the definition of an active farmer and of agricultural activity.

70.

The possibility to regionalise SAPS payments does not exist as SAPS is a transitory scheme towards SPS regional payments. Hence, in case a Member State would have liked to differentiate the level of payments between regions, it could have done so by introducing the SPS or since 2010 through the specific aid under Article 131 of Regulation 73/2009. Besides, measures under rural development programmes (LFA payments) exist to support disadvantaged regions.

71.

See reply to recommendation 3.

Recommendation 3

The Commission's legislative proposals aim at a more balanced distribution of aid through several measures such as progressive reduction and capping of direct payments, flexibility between pillars, regional allocation of national ceilings, convergence of the value of payment entitlements and small farmers scheme. Under the new policy, all Member States (including current SAPS countries) will have the option to regionalise the payments taking into account agronomic and economic characteristics and their regional agricultural potential.

72.

An evaluation of the income effect of direct support has been published in 2011 and the Commission is currently undertaking an external evaluation on the structural effects of the direct support which will examine the effect of direct support schemes, including SAPS, on different aspects of farm structure.¹² The evaluation is planned to be completed in autumn 2013.

73.

By providing an effective income insurance and minimum stability of revenue SAPS support helps farmers to mitigate adverse effects of such structural factors.

¹² In particular, the evaluation should examine the impacts of direct support on farm structures (size, number, land use, livestock numbers), maintenance of farming in marginal areas, impacts on labour force, capital and farm business strategies.

REPLY OF THE COMMISSION

74.

If SAPS are capitalised in the value of land, and the farmer is a landowner, any capitalisation of the SAPS directly increases the value of his/her assets. On the other hand, if a farmer rents the land, SAPS payments would compensate for any capitalisation on land rentals and at most be neutral compared to a situation without SAPS. Furthermore, it should be recalled that many operators who rent out their land are themselves farmers.

Recommendation 4

The issue of land prices has been analysed in a study on the functioning of land markets¹³, in the CAP Health Check — Impact Assessment¹⁴, and a further study on market factors is currently under way in the RTD 7th Framework Programme¹⁵. Besides, an evaluation by the Commission is ongoing as regards the impact of direct support on farm structures.

As regards the tools offered, SAPS support helps farmers to mitigate adverse effects of the structural weaknesses by providing an effective income insurance and minimum stability of revenue. In addition, other CAP instruments such as rural development support and farm advisory system are available to farmers to help tackle most of the issues mentioned by the Court. Those measures are designed and chosen by the Member States among a wide range of possibilities to fit their needs in terms of farm modernisation, training of employees, etc.

SAPS support helps farmers to mitigate adverse effects of such structural factors.

¹³ Study on the Functioning of Land Markets in the EU Member States under the Influence of Measures Applied under the common agricultural policy, Final report November 2008, http://ec.europa.eu/agriculture/analysis/external/landmarkets/index_en.htm;

¹⁴ CAP HEALTH CHECK — IMPACT ASSESSMENT NOTE N° 1 http://ec.europa.eu/agriculture/healthcheck/ia_annex/c1_en.pdf;

¹⁵ Comparative Analysis of Factor Markets for Agriculture across the Member States, http://cordis.europa.eu/search/index.cfm?fuseaction=proj.document&PJ_RCN=11351201

75.

It is the responsibility of Member States to take a decision on implementation of the SPS and to request consultation from the Commission. The Commission services are available for consultations and assistance if there is a need and upon a request from the Member State interested. The Commission has to respect the subsidiarity principle and cannot intervene in the Member States' competences.

See also reply to recommendation 5.

Recommendation 5

It is the responsibility of Member States to take a decision on implementation of the SPS and to request consultation from the Commission. The Commission services are available for consultations and assistance if there is a need and upon a request from the Member State interested. The Commission has to respect the subsidiarity principle and cannot intervene in the Member States' competences.

European Court of Auditors

Special Report No 16/2012

The effectiveness of the Single Area Payment Scheme as a transitional system for supporting farmers in the new Member States

Luxembourg: Publications Office of the European Union

2012 — 51 pp. — 21 × 29.7 cm

ISBN 978-92-9237-921-6

doi:10.2865/27543

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THE SINGLE AREA PAYMENT SCHEME IS A SIMPLIFIED TRANSITIONAL INCOME SUPPORT SCHEME FOR FARMERS IN THE NEW MEMBER STATES. THE COURT OBSERVES THAT PAYMENTS WERE ALSO MADE TO BENEFICIARIES NOT OR ONLY marginally INVOLVED IN FARMING OR IN RELATION TO UNUTILISED OR NON-AGRICULTURAL LAND. SINCE THE DISTRIBUTION OF AID IS BASED ON THE AREA AT THE DISPOSAL OF THE FARMER, THE SUPPORT IS CONCENTRATED ON A SMALL NUMBER OF LARGE FARMS AND SAPS AID MAY LEAD TO AN INCREASE IN LAND AND LEASE PRICES. PERSISTING STRUCTURAL WEAKNESSES AND INCREASING LAND PRICES MAY ADVERSELY AFFECT THE EFFECTIVENESS AND EFFICIENCY OF THE SUPPORT. THE COURT RECOMMENDS THAT THE SUPPORT BE DIRECTED TO THE ACTIVE FARMER WHO CONDUCTS CONCRETE AND REGULAR AGRICULTURAL ACTIVITIES AS WELL AS A MORE BALANCED DISTRIBUTION OF AID BETWEEN FARMERS TAKING INTO ACCOUNT THE SPECIFIC CIRCUMSTANCES OF THE FARMS IN THE DIFFERENT REGIONS.



EUROPEAN COURT OF AUDITORS



Publications Office

ISBN 978-92-9237-921-6

