



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 21 November 2012**

**16585/12**

**AGRI 783  
AGRISTR 162  
AGRIFIN 220**

**NOTE**

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from:	General Secretariat
to:	Council
Subject:	Information note on the increased error rate in rural development and corrective/preventive actions

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Delegations will find attached a note from the Commission to be dealt with under "Any other business" at the Council (Agriculture and Fisheries) on 28 - 29 November 2012.

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**Information note on the increased error rate in rural development and corrective/preventive actions****Background**

The 2011 Annual DAS report of the European Court of Auditors estimates the most likely error rate (MLE) for the whole chapter “Rural development, Environment, Fisheries and Health” to amount to 7.7%. It is the first time that the Court of Auditors establishes a separate error rate for Rural Development. This underlines that Rural Development expenditure is much more prone to errors than payments under Pillar I (MLE estimated at 2.9%).

The Commission’s own estimate of the level of undue payments on the basis of the control statistics provided by Member States in 2011 covering year 2010 also shows a deterioration of the situation, albeit of a more limited magnitude. Accordingly, the Director General for DG AGRI had included a reservation concerning rural development expenditure in his declaration of assurance in the Annual Activity Report 2011.

The relatively high error rate for Rural Development policy must be understood in the context of the specificities of this policy. Pillar II of the CAP applies highly targeted solutions to the significantly varied challenges faced by rural areas around the EU and is therefore intrinsically more complex than Pillar I. Nevertheless, there is ample room for improvement and actions to redress the situation have already been and must still be taken.

**DG AGRI WORKING GROUP ON ROOT CAUSES**

DG AGRI has set up a working group to assess the root causes of Rural Development errors and develop corrective actions for the current and future programming periods. The analytical work of the working group focused on the errors found in the Member States' control statistics for 2011 (claim year 2010).

The work of the working group was carried out in close cooperation with the paying agencies and managing authorities of each programme in order to assess the errors reported by measures and axis in the 12 Member States concerned with an overall error above the materiality level (2%) and in the two Member States where the error in Axis 2 was above this level.

## MAIN ROOT CAUSES FOR ERRORS

The working group found that the cause for the relatively high error rate in Rural Development lies primarily in the detailed conditions laid down by the Member States in the national or regional rural development programmes or in their implementing arrangements.

The group identified the following common root causes for errors which are relevant for many Member States:

*(1) Some systems of reductions in case of non-compliance with agri-environmental commitments are not proportionate*

Some agri-environmental commitments combine several conditions. A commitment of "extensive grassland management" could, for example, have the condition not to apply herbicides and fertilisers and to mow the grassland only during a certain period. Each of those conditions justifies a certain amount of the support. In some Member States, the non-respect of one of the conditions already leads to a 100% reduction, which is not considered proportionate.

*(2) "Entry" preconditions are set as eligibility conditions*

In some cases, Member States have established general preconditions to be fulfilled by beneficiaries but which are not part of the calculation of support. For example, farmers may have to respect a certain minimum or maximum livestock density in order to be eligible for the agri-environmental scheme, where the real commitment is the non-application of herbicides. These "entry" conditions are legally speaking "eligibility conditions" which, if not respected, lead to a 100% reduction even though the environmental objective has been achieved. It is preferable to make those conditions part of the "commitments" which determine the amount of support. In that case, their non-respect would lead to a proportionate reduction, as in the example of the livestock density condition.

*(3) Commitments are not linked to the environmental objective of the measure*

Member States have added conditions for agri-environment support, such as the obligation to market the produce as organic products. This leads to reductions for farmers who have respected the obligations linked to organic production but could not market their products as organic products due to, for example, absence of marketing channels in that Member State, although the environmental objective has been achieved.

*(4) Commitments that are intrinsically prone to implementing and control difficulties*

Member States' programmes contain a significant number of conditions that are intrinsically prone to implementing and control difficulties. Examples include commitments to (partially) reduce inputs or commitments that must be fulfilled at a particular moment in time. It would preferable to use these types of conditions only where they are of major importance for an environmental objective and, if so, to foresee from the start a specific control system and sufficient advice to farmers in order to counter the unavoidable control difficulties.

In addition, there commitments which are unclear as they do not specify exact conditions for the beneficiaries in terms of quantification or clear date of fulfilment. Examples include commitments such as maintenance of landscape features without further specification.

*(5) The special case of investment measures*

In Member States' error rate statistics for the claim year 2010, investment measures in most cases do not have a high importance for the overall error rate. However, weaknesses have been detected. They are mainly related to the non-respect of public procurement rules or tendering procedures by Member State authorities and beneficiaries. There are also cases where the beneficiary did not respect the project specifications approved in the Member States' grant decision.

## UNDERTAKEN AND ENVISAGED CORRECTIVE AND PREVENTIVE ACTIONS

### Current programming period

#### *Programming*

Although the impact of the actions in the current programming period will only be observed in the statistics of 2014, it is important that Member States still make an effort and provide more guidance to beneficiaries, improve the quality of the verification of the eligibility of projects, adapt the system of reductions to the proportionality principle and avoid entering into new commitments in 2013 of the types listed above.

#### *Audits*

DG AGRI has adapted its 2012 plan of audits of the implementation in the Member States of rural development measures. Some audits to Member States or regions with high error rates were added to the plan. In addition, in all planned audit missions, increased focus on the error rates have been added to the objectives of the audits. Similarly, in the preparation of the 2013 audit plan of rural development, more attention is paid to the issue of error rate and risk detection.

#### *Dissemination of information*

Several actions took and will take place in the Rural Development Committee in view of encouraging Member States authorities to address the identified weaknesses so as to improve the control and management system ultimately leading to a reduction in the reported error rates. A presentation to the committee of the results of the working group took place on 21 November. The Director General of DG AGRI will further address the issue at the committee meeting on 19 December.

The results of the working group were also presented to the 6th Conference with the Directors of the Paying Agencies and Coordinating Bodies held on 15 November.

## **Next programming period**

However, the most important corrective action is the preparation of the programmes for the next programming period, avoiding at the outset the root causes for errors identified above. This is a shared responsibility between the Commission and the Member States. The Commission will only approve Rural Development programmes where the design of the measures does not create undue risk of error. Member States are encouraged to establish their draft programmes in such a way that measures are clear, verifiable and controllable. To support Member States in that endeavour, the Commission intends to issue Guidelines early next year, summarising the negative and positive learnings from the conclusions of the working group.

During the approval process, the Commission will focus on the following:

### *(1) Content of the commitment*

The Commission will actively identify the error-prone conditions mentioned above and request Member States to modify them where necessary. Some commitments are more difficult to implement and to control, for example the livestock density requirement. Such conditions have their importance for the delivery of certain environmental goods but should only be used if closely linked to the objective of the measure and indispensable for the environmental objective. Furthermore, Member States should address the more difficult implementation by additional mitigating actions like more information and supervision of beneficiaries. In order to increase transparency for the beneficiaries, Member States should clearly set out the basic eligibility conditions or other obligations giving access to each measure in the measure descriptions.

### *(2) Use of simplified costs*

For rural development, a range of approaches will be provided for reimbursing payments by beneficiaries on the basis of simplified costs involving standard scales of unit costs, lump sums and flat-rate financing. As a result, the processes of claiming, administering and auditing reimbursement for payments made will be easier for everyone, making rural development support more accessible. The Member States should use these tools as a default option.

*(3) Assessment of the measure design by the paying agencies and managing authorities*

The Commission has proposed reinforcement of the verifiability and controllability of the measures in Article 69 of the Rural Development proposal. In this regard Member States' managing authorities and paying agencies should work together to provide an ex-ante and on-going assessment of the controllability and verifiability of the proposed measures. However, ideally further steps should be required; the same assessment should also ensure that measures are designed in a way that does not create undue risk of error.

## **CONCLUSIONS**

Both Member States and the Commission have a common interest to restore the credibility of the Rural Development policy.

Under shared management, Member States have their responsibility in simplifying the rules and thereby mitigating the risk of error in order to reduce the level of errors to a more appropriate level. For the next programming period, the Commission will not hesitate to request Member States to change their programme proposals where verifiability, controllability or clear measure design are not ensured.

The Commission will assist Member States in the preparation of the programme by issuing Guidelines and by continuous exchange of views in the Rural Development Committee. Furthermore, preparatory events will be organised, the first of which is the conference on "Successful Programming" which is scheduled for 6-7 December 2012 and which will act as a kick-off event for the 2014-2020 rural development programming.