



REPLIES OF THE EUROPEAN COMMISSION

TO THE EUROPEAN COURT OF AUDITORS' SPECIAL REPORT

Securing agricultural product supply chains during
COVID-19

EU response was rapid, but insufficiently targeted by
Member States

Contents

I. THE COMMISSION REPLIES IN BRIEF.....	2
II. COMMISSION REPLIES TO MAIN OBSERVATIONS OF THE ECA.....	3
1. The Commission response to the pandemic.....	3
2. The targeting of EU direct support.....	3
3. State aid: a tool to alleviate the impact of the pandemic in the Member States.....	4
III. COMMISSION REPLIES TO THE RECOMMENDATIONS OF THE ECA.....	6
1. Recommendation – Propose clear rules and share good practice to improve targeting of CAP measures.....	6

This document presents the replies of the European Commission to observations of a Special Report of the European Court of Auditors, in line with Article 259 of the [Financial Regulation](#) and to be published together with the Special Report.

I. THE COMMISSION REPLIES IN BRIEF

The Commission welcomes the conclusion of the ECA that the Commission's response to the threat posed to agricultural supply chains by the COVID-19 pandemic was, in general, appropriate.

The outbreak of the COVID-19 pandemic in 2020 caused an unprecedented crisis situation, also posing a threat to food security, which is a primary concern for EU citizens. Border controls and sanitary measures at various steps of the value chain slowed down the free movement of people and goods, restricting the ability of the Single Market to operate fully and resulting in market disruptions due to the severe reduction of the demand for some products. For example, whole or parts of the wine, beer, frozen/processed potato, cheese and meat (beef, poultry) sectors were impacted from one day to another by the closure of restaurants, and also the flowers and plants sector experienced significant financial losses.

In this context of the greatest uncertainty about the very near as well as the longer-term future, there was a tremendous pressure to take immediate action, expressed by the Council and by the European Parliament, in order to ensure basic functions of society. The Commission established in record time green lanes ensuring food flow and allowing agricultural workers to cross borders, it adopted a Temporary Framework (TF) for state aid to create a common approach and legal certainty while avoiding overcompensation and undue distortion of competition and finally, it provided extra flexibility for beneficiaries of CAP support and proposed new measures providing extraordinary support for the agricultural sector. Decisions were made with the view that implementation delays could have a major impact on the availability and affordability of food, an outcome to be avoided by all possible means.

As regards targeting of CAP crisis measures, which by nature are decided in a context of uncertainty, the Commission insists that flexibility is needed. This allows the Member States to propose solutions targeted to their specific conditions.

The need to act swiftly, and the general uncertainty in such situations, call for a certain level of subsidiarity at Member States level. This means that establishing clear EU rules and guidance upfront to ensure a better targeting is not appropriate, and would very likely create obstacles for managing a crisis situation in a timely and appropriate manner.

The Commission accepts the recommendation.

the co-legislators, established that the support should take the form of a lump sum payment, for which no assessment of the individual situation of beneficiaries was required – provided that the lump sum amounts were established by means of a sound and appropriate methodology that overall addressed the need. To provide support by simplified cost options (such as lump-sum payments) is a well-established approach in EU policies. It allowed a quick implementation with a limited administrative burden for beneficiaries as well as for the administrations, which is particularly crucial for crisis measures, where the support should reach the beneficiary as quickly as possible.

As regards crisis measures, which by nature are decided in a context of uncertainty and the need for prompt action, the Commission insists that flexibility is needed when it comes to targeting. This allows the Member States to propose solutions targeted their specific conditions.

Regarding the wine crisis distillation measures⁶, it consisted in a temporary *ad hoc* crisis measure which is not one of the current measures or types of interventions in the wine sector. Besides crisis distillation, wine crisis storage was opened during financial years 2021 and 2022⁷. Both measures were complementary. Crisis distillation balanced the market in the short term (30% of wine sales dropped), while wine crisis storage was needed in the long term. Member States then designed the measures according to their specific needs. The Commission monitored the crisis schemes and audited, among other areas, overcompensations (e.g. external audits in Romania and France).

As regards Private Storage Aid⁸, the Commission highlights that there is no benchmark to determine whether the uptake is low or high, as it does not set a specific target in terms of volume or budget. As the Member States do not apply for Private Storage Aid⁹ while private operators do, there are factors determining private operators interest to apply for Private Storage Aid, not necessarily related to the way the instrument is conceived. The fact that there are differences in the design of the Private Storage Schemes for the different products does not indicate any flaws. The products have different storage requirements (some can be frozen, some cannot; some lose value when frozen, some don't) and the legal basis is not exactly the same for meats and for dairy products. A thorough needs assessment was carried out ahead of introducing the measures.

The Commission learns from past lessons. The market crisis due to the Russian ban on fresh agricultural products (from August 2014 on) showed that detailed targeting at EU level had important shortcomings. In particular, regarding the exceptional measures to counteract the effects of the ban on fruit and vegetables producers, the eligible products for market withdrawal from the market were listed. This list had to be continuously updated due to the ongoing requests from Member States and stakeholders.

3. State aid: a tool to alleviate the impact of the pandemic in the Member States

Regarding state aid, it is up to the Member States to decide in which sectors they spend national money based on EU state aid rules. In order to create a level playing field and to avoid undue distortion of competition, the Commission adopted the TF, which applies to all economic sectors and established clear ex ante compatibility conditions. With the TF, the Commission provided guidelines to the Member States on how to design measures which could be declared compatible with the

⁶ See ECA observations 40 to 55 and 62.

⁷ See ECA observation 56.

⁸ See ECA observations 37-39.

⁹ See ECA observation 38.

internal market. The adoption of the TF in record time ensured a common playing field among the Member States and provided legal certainty. It also helped Member States to efficiently use the state aid tools to alleviate the impact of the pandemic in their economies. State aid measures helped to fight the pandemic, but by their own nature, state aid always distorts or may distort competition and trade.¹⁰

The Commission highlights that each Member State supported the sectors which were of importance for their own economy. The Commission does not have a legal basis to design the state aid policy of the Member States and impose coordination among themselves to support similar sectors of the economy.

As regards introduced state aid measures and the risk of distortion of competition¹¹, the Commission underlines that because Article 107 TFEU does not require to compare budgets between Member States as a compatibility condition, state aid rules cannot avoid possible differences in terms of budgets, which are due to the different size of the economy and financial capacity of each of them. Referring to mere budgeted aid does not allow to have a correct picture of the potential effect of State aid on competition and trade¹². The Commission notes that the reported data shows that no extraordinary differences were found in percentage of aid granted by Member States, if the percentage of the expenditure is compared to their gross domestic product (GDP). The Commission is of the view that comparing the data to Member States GDP in 2020 both in terms of nominal amount and aid element is more relevant for the assessment of the impact of State aid on competition and trade. The Commission considers that the data in terms of GDP percentage is evidence of a certain economic alignment in the use of public support in line with the size of Member States.

Concerning the risk of overcompensation¹³, the Commission notes that the TF established clear cumulation rules, including the EU direct financing. If Member States did not respect those rules and overcompensation were to occur, unlawful state aid could be recovered pursuant to the state aid procedural rules¹⁴.

¹⁰ Article 107(1) of the Treaty on the Functioning of the European Union, defines State aid as *'any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods [...], in so far as it affects trade between Member States'*. Therefore, public support to undertakings only constitutes State aid under Article 107(1) of the Treaty if it *'distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods'* and only insofar as it *'affects trade between Member States'*.

¹¹ See ECA observations 25-26.

¹² See ECA observations 23.

¹³ See ECA observation 28.

¹⁴ Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 248, 24.9.2015, p. 9).

III. COMMISSION REPLIES TO THE RECOMMENDATIONS OF THE ECA

1. Recommendation – Propose clear rules and share good practice to improve targeting of CAP measures

- a) include in legislative proposals regarding future crisis measures clear rules to provide support on the basis of objective and non-discriminatory criteria;

The Commission accepts recommendation 1a.

The Commission considers that it has been establishing clear rules and will continue to include in the legislative proposals for future crisis support measures the criteria as regards the Member States' targeting of support. Where flexibility for Member States is needed in view of the nature of the crisis, depending for instance on elements such as state aid, climatic conditions, energy prices or landscape and the kind of support measure adopted, it is for the Member States to propose the specific solutions that are targeted to and suited for their respective specific conditions.

Target implementation date: in the event of future crises

- b) to be prepared for future crises, share lessons learned and good practice with Member States, with the aim of targeting sectors and beneficiaries most in need.

The Commission accepts recommendation 1b.

The Commission will facilitate the exchange of best practices and lessons learnt from the implementation of the COVID-19 crisis measures, with a view to assist Member States and to possibly allow for an even better targeting of support to those beneficiaries that are most in need in future crisis situations. In addition, the Commission emphasises that as regards food security challenges in a crisis situation it has established a crisis coordination mechanism for better preparedness and reactivity (The European Food Security Crisis preparedness and response Mechanism).

Target implementation date: 2024