



REPLIES OF THE EUROPEAN COMMISSION

TO THE EUROPEAN COURT OF AUDITORS' SPECIAL REPORT

Durability in rural development: most projects remain operational for the period required, but there are opportunities to achieve longer lasting results

Contents

EXECUTIVE SUMMARY (Paragraphs I-VI)	2
INTRODUCTION (Paragraphs 1-14)	3
AUDIT SCOPE AND APPROACH (Paragraphs 15-19).....	3
OBSERVATIONS (Paragraphs 20-65).....	3
CONCLUSIONS AND RECOMMENDATIONS (Paragraphs 66-70)	6
Recommendation 1 – Target spending better on viable projects	6
Recommendation 2 – Mitigate the risks of diversion of funded assets for personal use.....	6
Recommendation 3 – Harness the potential of large databases for evaluation.....	7

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.

EXECUTIVE SUMMARY (Paragraphs I-VI)

Common Commission reply:

During the 2007-2013 and 2014-2020 programming periods, the European Agricultural Fund for Rural Development (EAFRD) continues to support diversified non-agricultural activities and encourage public and private investments in rural areas, including infrastructure in line with the European priorities for rural development. In accordance with the principle of shared management, support is provided in national or regional Rural Development Programmes, where Member States and the Commission are responsible for the management and control, and Member States are required to take all the necessary measures, including legislative, regulatory and administrative measures, to ensure that actions financed from the EU budget are implemented correctly and effectively and in accordance with the applicable EU and national rules.

The Commission finds it crucial to distinguish between the respect of the legally required durability period and the assessment of the longer-term impact of supported projects that remain operational beyond the legally required period. The durability requirements, laid down in Article 72 of Regulation (EC) 1698/2015 for the 2007-2013 period and in Article 71 of Regulation (EU) 1303/2013 for the 2014-2020 period, were agreed as appropriate by the legislators, and there is no legal basis for systematically requesting – nor monitoring – operation of projects beyond the legally required durability period. This would also entail excessive administrative burden for the national administrations.

The Commission finds it positive that many supported projects are operational years after the legally required durability period. The Commission considers that diversification measures bring long term diversification in rural areas, and that the closure of some businesses, or cessation of supported projects, are not necessarily because the initial project lacked economic viability. The Commission considers that these findings would benefit from further analysis, for example by making a comparison with general data for economic viability in those sectors, with businesses that did not receive public funding and with their average life-cycle, as well as with other possible external factors that may have affected the supported projects, such as macro-economic trends.

Support for similar projects is foreseen under the new Common Agricultural Policy (CAP) 2023-2027, which has as a general objective to strengthen the socio-economic fabric of rural areas. In accordance with the “New Delivery Model” as reflected in Regulation (EU) 2021/2115 and Regulation (EU) 2021/2116, the new CAP 2023-2027 aims at higher performance and results in view of its objectives. The EU legal framework is less prescriptive on rules directly applicable to the beneficiaries, which leaves more flexibility for the Member States to plan support and establish relevant aid conditions according to the needs and national contexts. In the CAP Strategic Plans, it is therefore for the Member States to propose relevant durability requirements appropriate to the different types of intervention. In its assessment of the plans, the Commission pays due attention to the appropriateness of the targets and the overall strategy of planned support as well as the design of the proposed interventions. Furthermore, the Commission is prepared to support the exchange between Member States to improve the economic viability of projects in the longer term.

The Commission accepts the recommendations.

INTRODUCTION (Paragraphs 1-14)

Commission replies:

07. While the evaluation study draws certain conclusions, the report itself does not exclude the positive contribution¹ to rural diversification of projects which ECA suggests are limited.

See also the Commission's reply to paragraph 61.

10. In accordance with the principle of shared management, Member States and the Commission are responsible for the management and control of Rural Development Programmes in accordance with their respective responsibilities laid down in Regulation (EU) 1303/2013 and the Regulation (EU) 1305/2013 and the Regulation (EC) 1698/2005. Member States should take all the necessary measures, including legislative, regulatory and administrative measures, to ensure that actions financed from the EU budget are implemented correctly and effectively and in accordance with the applicable EU and national rules.

11. Regulation (EU) 2021/2115 proposes a new delivery model, involving a move from compliance towards results and performance, by giving more flexibility to member states when it comes to implementation.

Please also see the Commission replies to the Executive Summary.

12-13. Common Commission reply to paragraphs 12 and 13:

As regards durability requirements in the CAP Strategic Plans for 2023-2027, the Commission encourages the Member States to include such provisions in their Plans where appropriate and adapted to the type of intervention in question.

For the programming period 2014-2020, durability requirements vary. Article 71 of Regulation (EU) 1303/2013 foresees a 5- year, a 3- year and a 10- year (relocation of the company outside the EU) durability requirements after the final payment to the beneficiary or within the period of time set out in State aid rules.

AUDIT SCOPE AND APPROACH (Paragraphs 15-19)

No Commission replies.

OBSERVATIONS (Paragraphs 20-65)

Commission replies:

21-23. Common Commission reply to paragraphs 21 to 23:

¹ Synthesis of Rural Development Programmes (RDP) ex-post evaluation of 2007-2013 - Evaluation Study. (p16)

The Commission notes that the sampled population of 879 tourist accommodation projects were all funded during the 2007-2013 period and had all met the durability requirement of 5 years and therefore fulfilled the legal requirement in that regard.

In addition, the Commission recalls that there are additional external factors determining the life-cycle of an enterprise beyond the elements discussed by the report.

24-27. Common Commission reply to paragraphs 24 to 27:

The Commission underlines that most of the sampled projects respected the legal durability requirement. Information on the reasons why some of the projects are no longer operational, as well as a comparison with the normal life cycle of similar businesses who did not receive public funding, would further inform the assessment.

33. The Commission notes that all projects referred to in box 2 stopped after their legal durability period including those two projects which operated for less than 5 years.

36. As shown in Figure 5, under the 2014-2020 legal framework, the rules were changed compared to 2007-2013 legal framework such that the durability period would start from the final payment of the project. This resulted in a more appropriate durability period and meant that situations as in the example from Bulgaria were avoided in the 2014-2020 period.

38-46. Common Commission reply to paragraphs 38 to 46:

Selection criteria are put in place to prioritise and select high-quality projects in view of the contribution to the objectives. However, in order to improve the chances of long-term economic viability of supported projects they need to be accompanied by a qualitative assessment by the paying agency of each application. The long-term impact of supported projects also depends on a number of external factors.

In the 2014-2020 period, in its guidance of the Member States, the Commission has increased the focus on appropriate use of selection criteria, compared to the 2007-2013 period in order to ensure equal treatment of applicants, better use of financial resources and targeting of measures in accordance with the Union priorities for rural development and with the legal framework. The Commission will continue its efforts to ensure exchange of good practices among Member States also for the use of selection criteria in the CAP Strategic Plans 2023-2027. In case of beneficiaries' non-respect of requirements, under shared management, it is for the responsible authorities to take action in accordance with the rules for penalties and recoveries. The Commission also audits the Member States' respect of requirements. In case of deficiencies in the Member States' management and control systems, the Commission may propose financial corrections.

The Commission points out that the example in box 5 is an illustration of situations of (possible) artificial creation of conditions (circumvention clause in the Article 60 of Regulation (EU) 1306/2013) or even of fraudulent behaviour.

52. The Commission encourages the Member States to provide support in the form of financial instruments, such as loans and guarantees, notably for economically viable investments generating revenue for the beneficiary.

54-55. Common Commission reply to paragraphs 54 and 55:

Under shared management, it is the responsibility of the national authorities to control the projects financed by EU Funds and to instigate recoveries in case the EU and/or national rules were not followed. The national certification body audits the rural development spending on an annual basis. In addition, the Commission carries out risk-based audits in the Member States to check compliance with the rules.

Regarding the issues identified by ECA in Romania and Bulgaria, the Commission would like to point out that, for Bulgaria, the Bulgarian authorities have launched recovery procedures related to unduly paid funds that started already in the aftermath of the 2017 Commission financial correction that followed a DG AGRI audit. However, the recovery procedures are complex because the vast majority of the beneficiaries subject to recoveries have taken the Bulgarian authorities to Court. Moreover, several complaints have been lodged with the Commission and the European Parliament by some of these beneficiaries. The Commission is assessing these complaints.

When it comes to previous programming period 2007-2013, the measures related to tourist accommodation (essentially measures 311, 312 and 313) have been audited by the Commission (since 2011) in nine Member States. In two Member States weaknesses in the implementation of appropriate procedures were detected.

When it comes to programming period 2014-2020, Sub measure 6.4 (which also finances guesthouses projects) was audited by the Commission through 21 audits covering twelve Member States. In four Member States, the Commission detected weaknesses in the implementation of appropriate procedures. So far no widespread irregularities have been detected apart from the situation in Bulgaria described in the previous point.

61-65. Common Commission reply to paragraphs 61 to 65:

As regards the difficulties to measure the extent of contribution, the Commission underlines that the synthesis report² also states that “while the conclusions are built on the measures for which we can say with certainty that there was a positive contribution to the intended objective, this does not mean that those with a lower extent of contribution or lower plausibility were ineffective initiatives that did not contribute. To the contrary, as can be seen in the individual measures’ contributions, in most cases they reflect an ex-post evaluation report’s lack of a conclusion on contribution rather than a report’s assessment of no or a low contribution. Furthermore, the extent of contribution is correlated to the ease of measuring this contribution. In addition, there is a strong relation between measurability and the time a measure has been implemented, as the process has already been streamlined and the measuring techniques and approaches have been defined more clearly.”

Please see also the Commission reply to paragraph 07.

The Commission underlines that the Member States are not required, and given the high number of small projects cannot be expected, to systematically monitor or control whether investment projects remain operational beyond what is the legally required durability period. In addition, data protection rules restrict the ability of the Commission to directly perform such a monitoring. Nevertheless, the Commission can encourage Member States to make better use of business registers or other large databases.

² Synthesis of Rural Development Programmes (RDP) ex-post evaluation of 2007-2013 – Evaluation Study, (p16)

CONCLUSIONS AND RECOMMENDATIONS

(Paragraphs 66-70)

Commission replies:

66-69. Common Commission reply to paragraphs 66 to 69:

The Commission agrees that the selection procedure could be improved, in particular by promoting better case by case assessment of the quality of the projects based on the beneficiaries' projects description. The long-term impact of supported projects further depends on a number of external factors, such as macro-economical trends and crises that cannot be influenced by selection procedures.

Recommendation 1 – Target spending better on viable projects

The Commission accepts the recommendation.

The Commission will facilitate the sharing of best practices between Member States.

Recommendation 2 – Mitigate the risks of diversion of funded assets for personal use

2.A. The Commission accepts the recommendation.

The Commission will continue to work with Member State authorities as well as other stakeholders notably in the future European CAP Network in order to share and exchange on best practices and thereby facilitate an efficient implementation of the policy, aiming to ensure the highest EU added value of the support provided. The Commission is encouraging the Member States to include relevant durability requirements in the CAP Strategic Plans where appropriate, depending on the type of support provided.

B. The Commission will continue to encourage Member States to provide support in the form of financial instruments, such as loans and guarantees, notably to economically viable and revenue generating investments.

2.B. The Commission accepts the recommendation.

70. There is no legal basis to require the Member States to systematically monitor whether supported projects are operational beyond the durability period required by the Regulation (EC) 1698/2005 and by the Regulation (EU) 1303/2013. This would create excessive administrative burden on Member States.

Recommendation 3 – Harness the potential of large databases for evaluation

3.A. The Commission accepts the recommendation.

The Commission will help Member States identifying the relevant sources of information and share best practices.

3.B. The Commission accepts the recommendation.