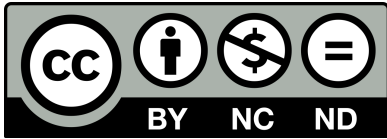


# Animals in the EU Agricultural Policy

## RESEARCH NOTE #3



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Animal Law Europe, Bruxelles, 2021.

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## Introduction

The European Union (EU) regulates public support to agriculture through a system of subsidies and support programs called the “Common Agricultural Policy” (CAP). Through its agricultural subsidies and support programs, the CAP has the power to shape the ways in which agriculture is practiced, thereby determining which types of farming systems are likely to thrive across Europe. The CAP thus influences the diets of 500 million Europeans by incentivizing the supply of certain agricultural outputs.

The CAP is the only agricultural policy in the world to take animal welfare into account through the integration of two types of animal welfare measures; one that is intended to improve compliance with animal welfare legislation, and another intended to provide a standard of welfare for animals on farms above the minimum required by law. Additionally, these subsidies carry the desired effect of protecting wild animals and natural habitats.

Though the 2021 reform of the CAP was influenced by the Green Deal to a limited extent, this CAP reform now provides a third measure for animal welfare practices. However, a large array of programs that support industrial farm animal production remain in place, with the effect of undermining efforts to shift away from factory farming to more sustainable diets in Europe.

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## 1. Introduction to the EU's Agricultural Policy: Unpacking the CAP

### 1.1. What is the Common Agricultural Policy ?

The European Union (EU) regulates public support to agriculture through a system of subsidies and support programs called the "Common Agricultural Policy" (CAP). The CAP is composed of four, soon to be three, regulations, which primarily establish rules on distribution of public subsidies: their amount, types, and eligibility criteria for beneficiaries. The CAP is revised on average every seven years in the EU, and until the 2021 reform, CAP expenditures accounted for a majority of the total EU budget. The CAP was also the EU's first and, for many years, only fully integrated policy. Its inclusion in the Union's founding treaties has also provided the legal basis for the EU legislation on farm animal welfare.<sup>1</sup>

**Table 1:** The Three Regulations Composing the CAP

Name	Objectives	Pre-2021 Reform Name
Strategic Plans Regulation <sup>2</sup>	Sets general rules that Member States should follow when handing out subsidies.	Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).

<sup>1</sup> Article 13, Treaty on the Functioning of the European Union, C 326/54, 2009.

<sup>2</sup> Proposal for a Regulation of the European parliament and of the Council establishing rules on support for strategic plans to be drawn up by Member States under the Common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Regulation (EU) No 1307/2013 of the European Parliament and of the Council.

<p>Regulation on the Common Market Organizations (CMOs)<sup>3</sup></p>	<p>Sets rules for stabilizing markets and preventing market crises from escalating by providing a safety net to agricultural farmers through the use of market intervention tools (public intervention and private storage aid); sets common production and marketing rules to harmonize competition rules on the EU market.</p>	<p>Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products</p>
<p>Horizontal Regulation<sup>4</sup></p>	<p>Establishes the budget and inspections rules to ensure the proper implementation of the CAP.</p>	<p>Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy</p>

## 1.2. Past, Present, and Future of the CAP

Even though the CAP is the only agricultural policy in the world to take animal welfare into account, it nevertheless largely incentivizes industrial farm animal production and has since its creation in 1962.

Following the Second World War and the establishment of the European Economic Community, the six founding Member States undertook efforts to restore Europe's agricultural production capacity, creating the CAP in 1962. From its outset, the CAP was successful in achieving food security, so much so that as

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<sup>3</sup> Regulation of the European parliament and of the Council amending Regulations (EU) No 1308/2013 establishing a common organization of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatized wine products, (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union and (EU) No 229/2013 laying down specific measures for agriculture in favor of the smaller Aegean islands.

<sup>4</sup> Proposal for a Regulation of the European parliament and of the Council on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013.

early as the 1970s, farmers started overproducing food, including beef and butter, famously referred to in the media at the time as “butter mountains.”

The CAP has undergone several reforms since its creation. The most recent major CAP reform was in the early 2000s, with the CAP model taking on a “multifunctional” approach. Such an approach recognizes agriculture as a provider of non-commodity benefits, also referred to as “public goods,” beyond the sole task of producing food. A multifunctional agricultural policy is therefore one that “is capable of [...] conserving nature and making a key contribution to the vitality of rural life, and that responds to consumer concerns and demands as regards food quality and safety, environmental protection and the safeguarding of animal welfare.”<sup>5</sup>

Under this multifunctional approach, the CAP integrates policy instruments aimed to incentivize the supply of such public goods, including animal welfare, in addition to severing the link between subsidies and production volumes. In practice, farmers receive two types of subsidies under the current CAP model:

(1) a payment based on the size of their farm, provided they respect strict food safety, environmental, and animal welfare rules (“Pillar I”\*)

(2) a payment for farming and producing public goods, such as systems benefiting animal welfare or the environment (“Pillar II”\*).

However, the new policy instruments designed to ensure multifunctionality have faced harsh criticism. On the one hand, farmers deplore the complexity of ever more numerous, seemingly inconsistent mechanisms. On the other hand, civil society questions the legitimacy and ability of the CAP to counter the spread of intensive modes of production, with advocates demanding better targeted support and more accountability in the distribution of subsidies. Yet, the proposal put forward by the European Commission for the 2020 reform only seeks to address these issues through a reform of the delivery model of the CAP, rather than through a root and branch reassessment of the foundations of the policy itself.

In 2018, the European Commission – the executive branch of the EU – presented a proposal for reform of the CAP. After three years of negotiations, the European Parliament is slated to adopt the revised regulations of the CAP by the end of 2021.

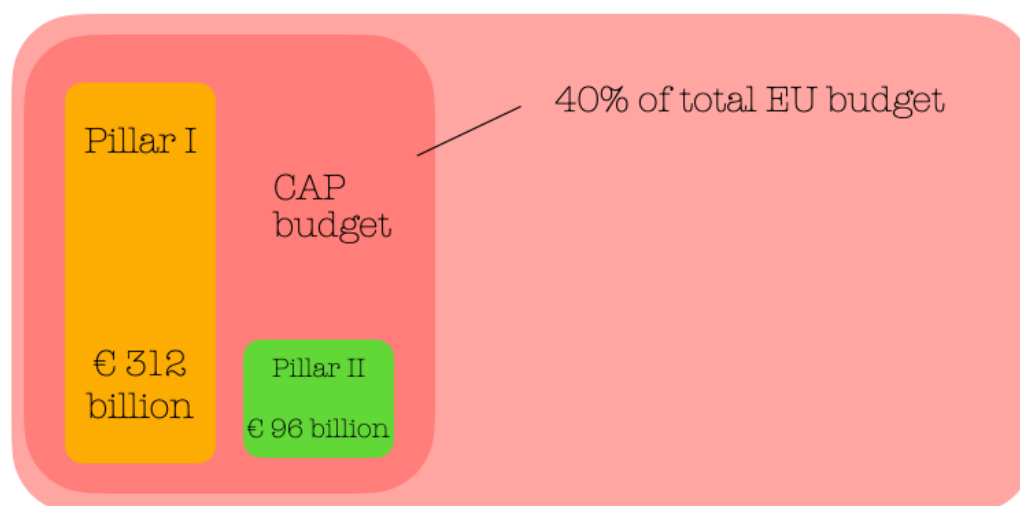
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<sup>5</sup> Conclusions of the Berlin European Council of March 1999, embodying policy on the “Agenda 2000” package cited in European Parliament, *Report on Multifunctional Agriculture and the Reform of the CAP*, 8, 22 May 2003.

**Table 2:** The 2021 CAP Reform

Main Reform	Description
<p>Subsidiarity (weight of Member States in making decisions)</p>	<p>1. The Commission transfers the management of funds to Member States, rather than directly dealing with agricultural producers.</p> <p>2. Countries have to follow three general and nine specific objectives (including the improvement of animal welfare) listed by the Commission, and pursue the achievement of such objectives at national level through the implementation of a plan, referred to as a "National Strategic Plan*."</p> <p>3. Achievement of the objectives and actions outlined in the National Strategic Plans would be measured through common indicators related to output, result and impact, thereby ensuring consistency across the EU.</p>
<p>Outcome-oriented payments (as opposed to compliance-based)</p>	<p>Member States in charge of distributing CAP funds to farmers would receive payments based on the results in the achievement of objectives, as opposed to compliance only with EU legislation, as was the previous criterion.</p>
<p>Reduced budget</p>	<p>The 2021 CAP is projected to only amount to 35% of the EU total budget, compared to 40% in the current funding period.</p>

**Box 1:** The CAP Budget



### 1.3. How is the CAP Shaping the Treatment of Animals on Farms and in the Wild?

#### 1.3.1. The CAP, A Potentially Powerful Vehicle to Improve Animal Welfare

Through its agricultural subsidies and support programs, the CAP has the power to shape the ways in which agriculture is practiced, thereby determining which types of farming systems<sup>6</sup> are likely to thrive across Europe. The CAP thus influences what 500 million Europeans eat by incentivizing the supply of certain animal source food.

The CAP can also ensure the enforcement of farm animal welfare legislation, through a mechanism called “conditionality\*” and can encourage the undertaking of good practices\* on farms by subsidizing farm animal welfare measures. Finally, the CAP has the potential of improving protection levels of wild animals, also through conditionality\* - which ensures better compliance rates with environmental legislation - and by subsidizing methods of production that mitigate agriculture’s footprint on wild habitats.

**Table 3:** The Main Effects of the CAP on the Treatment of Farmed Animals

Quantity of animals used for food production	Given the CAP’s influence, the fact that animal agriculture accounts for almost half of the EU’s agricultural value and that industrial farm animal production is steadily increasing, this legislation more than any other impacts <b>the numbers of terrestrial animals produced for food.</b>
The treatment of animals used for food production	Similarly, the CAP has an impact on <b>the ways in which animals are raised.</b> Certain policy instruments in the CAP aim to ensure compliance with animal welfare legislation (“conditionality”*), and incentivize higher animal standards by compensating farmers who undertake best practices (“Pillar II”*).
Wild animals	The CAP can also be a vehicle to mitigate agriculture’s adverse impacts on wild habitats.

<sup>6</sup> The Common Agricultural policy only subsidizes terrestrial farming. The Common Fishery Policy subsidizes the farming and fishing of aquatic animals.



Since 1992,<sup>7</sup> the EU's constitutional treaties have recognized animals as sentient beings. More importantly, the treaties impose a duty on the EU Legislature to "pay full regard to [the ]welfare of animals]" when "formulating and implementing the Union's agriculture policies" (among other policies). In 2009, the constitutional Treaty of Lisbon was revised to include such a provision in its Article 13. However, the objectives of the CAP, which are listed at Article 39 of the Lisbon Treaty remain unchanged and still pursue, among other objectives, the increase in "agricultural productivity."<sup>8</sup>

However, animal welfare has been listed as an objective in the CAP regulations since 2003. Three of the EU farm animal welfare laws are integrated to the conditionality\* mechanism under Pillar I.\* Additionally, measures to promote higher animal welfare levels are matched with a dedicated subsidy under Pillar II.\*<sup>9</sup> In 2021, the European Commission created another type of payment to further encourage the implementation of good practices\* on farms, called "eco-scheme."<sup>\*</sup>

### 1.3.2. The Articulation Between the CAP and Farm Animal Welfare Legislation

EU farm animal welfare legislation regulates the ways in which business operators can treat animals on farm, during transport, and at slaughter. These laws are only included to the CAP to a limited extent, through conditionality\*, and with limited effects on the welfare of animals. For this reason, efforts to improve the treatment of animals in EU law have traditionally focused on reforming animal welfare laws to achieve higher levels of protection for animals.

However, another area of EU law, at a more overarching level, determines the production model for animal agriculture in the EU: agricultural regulations contained in the CAP. As the preeminent legislation which shapes agricultural production models, the CAP is an indispensable vehicle through which to reform the treatment of farmed and wild animals in the EU. Any efforts to reform the treatment of animals is therefore bound to be severely limited without a reform of the subsidy systems that support current animal source production. One example of the interdependence of animal welfare legislation with the CAP can be found in the change to EU animal welfare laws announced by the Commission, which triggered at least one new animal welfare payment under the CAP, partly to enable a transition towards cage-free farming.

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<sup>7</sup> Protocol n°24, Treaty on European Union, OJEC, C 325/5, 2002.

<sup>8</sup> Article 39, Treaty on the Functioning of the European Union, C 326/62, 2009.

<sup>9</sup> Article 33, Regulation 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005, OJ L 347/487-548 (2013).

## 2. Animal Welfare Measures under the CAP

The CAP is structured in two main sections, colloquially referred to as “Pillar I”<sup>\*</sup> and “Pillar II.”<sup>\*</sup> Whereas Pillar I<sup>\*</sup> establishes rules related to payments for farmers, Pillar II<sup>\*</sup> of the CAP, also called “Rural Development,” provides a list of additional measures that Member States can fund.

### 2.1. Payment Support (“Pillar I”)

#### 2.1.1. Conditionality Rules

Conditionality is a potentially powerful enforcement mechanism of EU animal welfare laws. It is a measure that is widely popular among EU citizens.<sup>10</sup> Conditionality consists in reducing subsidies for farmers who are found to be noncompliant with some provisions in the directives on pigs, calves, and the general directive concerning the protection of animals kept for farming purposes. In that sense, conditionality rules only facilitate the enforcement of some of the rules contained in EU animal welfare legislation; conditionality rules do not afford additional payment or impose additional rules for farmers.

**Table 4:** Conditionality Rules on Farm Animal Welfare<sup>11</sup>

Calves	Articles 3 and 4 of the Calves Directive <sup>12</sup>
Pigs	Articles 3 and 4 of the Pigs Directive <sup>13</sup>
All farmed animals, for all farming purposes, except invertebrates	Article 4 of the General Farming Directive <sup>14</sup>

<sup>10</sup> The majority of EU citizens think it is justified to reduce subsidy payments to farmers who do not respect food safety standards (90%), because environmental standards are not respected (88%) or because animal welfare standards are not respected (88%). Source: Special Eurobarometer 473, Europeans, Agriculture and the CAP, 5 (2018).

<sup>11</sup> Article 93 and Annex II, Regulation 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008, OJ L 347/ 592 and 603 (2013).

<sup>12</sup> Council Directive 2008/119 of 18 December 2008 Laying Down Minimum Standards for the Protection of Calves, 2009 O.J. (L 10) 7 - 13 (EU).

<sup>13</sup> Council Directive 2008/120 of 18 December 2008 Laying Down Minimum Standards for the Protection of Pigs, 2009 O.J. (L 47) 5 - 13 (EU).

<sup>14</sup> Council Directive 98/58 of 20 July 1998 Concerning the Protection of Animals Kept for Farming Purposes, 1998 O.J. (L 221) 23 - 27 (EU).

### 2.1.2. The Important Limitations of Conditionality

First, conditionality rules only include three of the five pieces of animal welfare legislation, because only pork, calves, producers are eligible for Pillar I's hectare-based direct payments. Second, penalties for breaching animal welfare conditionality rules remain low, from a 1 to 3% reduction in subsidies, as provided in the Horizontal Regulation. Finally, Member States can and usually do implement a warning system, which means that up to three warnings can be issued before the authorities effectively reduce subsidies.

### 2.1.3. Eco Schemes

The 2021 CAP reform creates a new type of subsidy, called "eco-schemes," which funds, on a yearly basis, measures that improve the welfare of animals on farms. The "eco-schemes" are considered a "green payment" in that they aim to reduce the environmental footprint of agriculture. The European Commission published a list of animal welfare measures for which eco-scheme funding can be granted. The list includes the following:<sup>15</sup>

- Friendly housing conditions: increased space allowances per animal, improved flooring (e.g., straw bedding provided on a daily basis), free farrowing, provision of enriched environment (e.g. rooting for pigs, perching, nest-building materials, etc.), shading/sprinklers/ventilation to cope with heat stress
- Practices and standards as set under organic farming rules
- Practices increasing animal robustness, fertility, longevity and adaptability, e.g. lifespan of dairy cows; breeding lower-emission animals, promoting genetic diversity and resilience
- Providing access to pastures and increasing grazing period for grazing animals
- Provide and manage regular access to open air areas

Even though eco-schemes were already included in the 2018 proposal by the European Commission, they are presented as a component of the Green Deal in the CAP.

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<sup>15</sup> European Commission, List of Potential Agricultural Practices that Eco-Schemes Could Support, January 2021, available online: [https://ec.europa.eu/info/sites/default/files/food-farming-fisheries/key\\_policies/documents/factsheet-agri-practices-under-ecoscheme\\_en.pdf](https://ec.europa.eu/info/sites/default/files/food-farming-fisheries/key_policies/documents/factsheet-agri-practices-under-ecoscheme_en.pdf)

## 2.2. Good Practice Subsidies (“Pillar II”)

### 2.2.1. Measure 14

Whereas Pillar I only includes animal welfare legal standards through conditionality, Pillar II consists of measures that aim to improve farm animal welfare beyond minimal legal requirements, with the objective of developing rural areas. Member States willing to include funding for animal welfare measures can therefore choose to do so. Such measures typically fund programs that improve animal health – such as better hoof care or nutrition plans – increase space allowance and outdoor access, or prolong weaning periods.<sup>16</sup>

### 2.2.2. Other Measures Benefitting Farm Animal Welfare

Other measures exist to benefitting farm animal welfare, such as Measure 4 for on-farm investment, which can be used to improve outdoor areas for poultry. Measure 11, for the conversion maintenance<sup>17</sup> of organic agriculture also benefits animals to the extent that organic standards in animal agriculture are higher than legal standards.<sup>18</sup>

### 2.2.3. Limitations of Pillar II Measures

First, EU Member States are not required to fund animal welfare measures. As a result, only 18 out of the 28 Member States<sup>19</sup> of the EU have implemented Measure 14 (M14) on animal welfare. For the 2014-2020 period, these 18 Member States allocated €1.5 billion to this measure, which represents only 1.5% of the total expenditure for Pillar II. National spending for M14 totals nearly €2.5 billion, an amount that is much lower than the programmed spending, which means that Member States have *underspent* on animal welfare measures.

Second, animal welfare measures under Pillar II are not tied to strict animal welfare criteria with effective reporting and inspection mechanisms. For instance, a 2018 report by the European Court of Auditors had found that a pig producer was

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<sup>16</sup> RSPCA, Into the Fold Targeted Financial Support to Improve Farm Animal Welfare, 2018.

<sup>17</sup> European Court of Auditors, Special Report N° 31/2018: Animal Welfare in the EU: Closing the Gap Between Ambitious Goals and Practical Implementation (2018).

<sup>18</sup> Les normes du label bio en matière bien-être animal sont surtout plus élevées dans les filières volailles. V. Alice Di Concetto, « Bien-être animal et production biologique : que dit le nouveau règlement ‘bio’ européen ? », Revue Trimestrielle de la Fondation Droit Animal Ethique & Sciences, n° 107, octobre 2020 (in French).

<sup>19</sup> Accounting for a total of 70 Rural Development Programs out of the 118 programs in the E.U. Source: European Network for Rural Development, RDP Summaries, [https://enrd.ec.europa.eu/policy-in-action/rural-development-policy-figures/rdp-summaries\\_en](https://enrd.ec.europa.eu/policy-in-action/rural-development-policy-figures/rdp-summaries_en) (last visited May 22, 2019).

receiving payment under Pillar II's Measure 14 all the while violating the ban on routine tail-docking of pigs.<sup>20</sup>

Third, animal welfare payments often diverge from their intended target through the modernization of intensive livestock production systems that, for instance, may only marginally improve animal welfare.

### **3. Programs Potentially Undermining Animal Welfare in the CAP**

Animal source producers receive very few direct subsidies from the EU. Rather, the meat and dairy industry receives support through a large array of indirect subsidies. We will give a few examples here. The support programs disproportionately benefit industrial farm animal production compared to the cosmetic animal welfare measures described above.

#### **3.1. Pillar II Measures**

A number of measures under Pillar II undermines the effort undertaken to improve animal welfare. This is the case of certain subsidies related to on-farm investment (Measure 4 above-mentioned), which end up subsidizing the building of infrastructures such as industrial warehouses for the keeping of chickens, bio-gas tanks, or even manure lagoons to help producers comply with environmental regulations. These subsidies have the effect of incentivizing industrial farm animal production by externalizing significant production costs of factory farming.

#### **3.2. Promotion Funds**

The CAP also provides funding for the EU agricultural promotion policy, which aims at promoting agri-food products made in the EU. To achieve this goal, the European Commission's Consumer, Health, Agriculture and Food Executive Agency (CHAFEA) grants funds to inter-trade organizations so they can run advertising campaigns inside and outside the EU.<sup>21</sup>

These campaigns primarily advertise products, not brands - when they do advertise brands, advertising materials must display multiple brands. Currently, all EU-based inter-trade organizations of all agri-food sectors are eligible to apply for these promotional grants, regardless of the type of products,<sup>22</sup> or their method of

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<sup>20</sup> European Court of Auditors, Special Report N° 31/2018: Animal Welfare in the EU: Closing the Gap Between Ambitious Goals and Practical Implementation, 44 (2018).

<sup>21</sup> In April 2021, the European Commission delegated the promotion of agricultural products to the European Research Executive Agency (EREA, former REA).

<sup>22</sup> All products listed in Annex I of the TFUE, including all animal source food, are eligible for CHAFEA funds, as per Article 5, Regulation 144/2014 of the European Parliament and of the

production. In the 2016-2020 period, the EU granted €252.4 million to inter-trade organizations so that they could promote meat and dairy products.<sup>23</sup>

Overall, the sum dedicated to the promotion of animal source food is disproportionately high compared to the amount dedicated to the promotion of fruits and vegetables. In the same funding period, 32% of the total spending of €776.7 million went to promote meat and dairy products, as opposed to 19% used for fruits and vegetables.<sup>24</sup> A 2020 study by Greenpeace further demonstrated that meat and milk further benefited from “mixed” campaigns, which promote several products including animal source food, and the amount of which is estimated at €215 million (28% of the budget).

Over the last financial period, campaigns funded by CHAFEA have resulted in encouraging the production and consumption of inhumane food products. For instance, the “Let’s Talk About Pork” campaign, which has been running in France, Spain, and Portugal, encouraged young consumers to eat more pork. Ironically, the campaign depicts pork production as compliant with high animal welfare standards. Yet, more than 90% of pigs in France and Spain are raised on farms where sows are kept in cages, piglets undergo inhumane practices such as castration without anesthesia, teeth-clipping, and tail docking, and all throughout the production chain these animals are deprived of outdoor access.<sup>25</sup>

### 3.3. EU School Milk Scheme

The CAP further funds another program, the EU School Milk Scheme, that incentivizes production, and at times, overproduction, of milk.

The EU has had a history of overproducing milk as early as a few years after the creation of the CAP in 1962. To limit milk surpluses and stabilize pricing, the EU Legislature imposed a limit on production levels of milk – a measure known as “milk quotas.” In March 2015, the EU Legislature abolished milk quotas, considering that quotas imposed heavy regulatory and administrative burdens on producers, all the while preventing producers from selling their production at profitable prices on the global market. At the same time, beginning in the 1990s, to comply with World Trade Organization Rules, the EU Legislature significantly reduced subsidies afforded to milk producers.

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Council of 22 October 2014 on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries and repealing Council Regulation (EC) No 3/2008, JO L 317 /56–70 (2014).

<sup>23</sup> Sini Eräjää, “How EU promotional funds favour meat and dairy”, p.5, Greenpeace European Unit, April 2021, <https://www.greenpeace.org/static/planet4-eu-unit-stateless/2021/04/20210408-Greenpeace-report-Marketing-Meat.pdf>

<sup>24</sup> *Ibid.*

<sup>25</sup> 99 %, 98,5 %, and 65 % of piglets undergo tail docking respectively in France, Spain, and Portugal. Source: European Commission (DG SANTE), Audits on Measures to Prevent Tail Biting and Avoid Tail-Docking of Pigs in Spain (2017), France (2019), and Portugal (2019).

In 2017, only two years after the end of milk quotas, the EU legislature merged two existing schemes (the “School Fruit and Vegetables Scheme,” and the “School Milk Scheme”), into one single program (“The EU School Fruit, Vegetables and Milk Scheme”), the objective of which is to “support the distribution of products, educational measures and information measures.”<sup>26</sup> In economic terms, support afforded to milk in the EU School Scheme provides a privileged market for milk producers through the subsidization of public procurement of milk and dairy products for school cafeterias across the 27 Member States. Additionally, because the milk measures in the EU School Scheme target young children primarily in primary school,<sup>27</sup> this program further enables producers to influence food choices and consumption habits of upcoming generations of European citizens.

For the 2018-2019 school year, expenditure for milk under the EU School Scheme amounted to €70,9 million.<sup>28</sup> This number only represents the amount of the subsidies that directly benefited the sector. This number therefore does not take into account long-term effect on consumer food choices of the 19,4 million children who were offered a total of around 130 million liters of drinking milk that same year,<sup>29</sup> and who were the target of educational measures intended to increase their dairy consumption levels.

Additionally, only a small number of Member States give priority to the environment when implementing the EU School Scheme, even if a majority of them privilege organic milk.<sup>30</sup> However, standards in organic milk production are too lax to ensure high levels of animal protection. Specifically, the Organic Regulation still does not establish a cap on the number of animals per holding, and so hardly limits the concentration and specialization in the dairy sector, two features that are associated with intensive and environmentally deleterious practices,<sup>31</sup> as well as lower levels of cow welfare.

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<sup>26</sup> European Commission, School Scheme Explained, [https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/market-measures/school-fruit-vegetables-and-milk-scheme/school-scheme-explained\\_en](https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/market-measures/school-fruit-vegetables-and-milk-scheme/school-scheme-explained_en) (last visited July 22 2021).

<sup>27</sup> European Commission, EU School, Fruit, Vegetable, and Milk Scheme: Monitoring Data, available online:

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<sup>28</sup> European Commission – DG Agri, Maria Giulia Medico, Update on the EU School Scheme, Civil Dialogue Group Milk, February 26 2021.

<sup>29</sup> *Ibid.*

<sup>30</sup> European Commission – DG Agri, Maria Giulia Medico, Introducing the EU School Scheme, Civil Dialogue Group Milk, 2018.

<sup>31</sup> Final Report for the European Commission, The Environmental Impact of Dairy Production in the EU: Practical Options for the Improvement of the Environmental Impact (2020).



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I am a French and US-educated lawyer specializing in animal law. In 2021, I founded the first female-founded consultancy in Brussels, Belgium dedicated to assisting organizations advance the interests of animals in European law and policy.



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## Appendixes

### I. Lexicon

**Pillar I:** “Pillar I” refers to the programs of the CAP funded under the European Agricultural Guarantee Fund (EAGF), and which are managed by the European Commission. “Pillar I” measures covers two types of programs: the “Direct Payments,” which are subsidies given to producers for the production of agricultural goods (crops and animal products), and “Market Measures,” which are support programs aiming to facilitate market access to agricultural goods (promotion measures, EU School Schemes) or relieve the market from agricultural surpluses (market support measures and also EU School Schemes).

**Pillar II:** “Pillar II” of the CAP, also called “Rural Development,” are measures to be implemented at national level. Some of these measures are compulsory (the EU imposes Member States to implement them) some are optional (Member States can choose to implement them). The list of measures form what is called a national “Rural Development Plan” (RDP), which is funded under the European Agricultural Fund for Rural development (EAFRD), co-funded by the EU and the Member States. Member States develop and manage their RDPs, oftentimes at regional level rather than national level.

**Conditionality:** An enforcement mechanism by which farmers who do not comply with some minimum legal standards can have the amount of their subsidies reduced.

**Eco-schemes:** A type of subsidy that funds the implementation of environmental-friendly practices on farms.

**Good practice(s):** For the purpose of this document, a good practice is considered a practice that goes beyond standards set in the regulation. A good practice is not necessarily positive for animals, “good” in good practice simply means that it goes beyond legal standards.

**Measure 14:** Measure 14 is dedicated to funding animal welfare measures in the Member States, under their national Rural Development Plan.

**Rural Development Plans:** A set of measures co-funded by the EU and the Member States, that Member States implement at national or regional levels.

II. List of Programs Affecting the Treatment of Animals in the CAP and Opportunities for Reform

Pillar I		Pillar II
<p><b>Direct Payments</b> 75% (funded under EAGF) = supply-side subsidies</p>	<p><b>Market Measures</b> 5%(funded under EAGF) = demand-side subsidies</p>	<p><b>Rural Development</b> 25% (funded under EAFRD)</p>
<p style="text-align: center;"><b>Compulsory Schemes</b></p> <ul style="list-style-type: none"> <li>• <u>Basic Payments</u>: <i>Basic Payment Schemes (BPS) or Single Area Payment Scheme (SAPS, transitioning scheme for new Member States)</i></li> <li>• <u>Green Payments</u>: Requirements: crop diversification + maintenance of permanent grasslands + ecological focus area ⊕</li> <li>• <u>Young farmers scheme</u></li> </ul> <p style="text-align: center;">+</p>	<ul style="list-style-type: none"> <li>• Market support measures*</li> <li>• Promotion of farm products*</li> <li>• EU School Schemes*</li> </ul>	<p>Includes animal welfare measures, on-farm investments, environmental and modernization payments.*</p>

<p style="text-align: center;"><b>Voluntary Schemes</b></p> <ul style="list-style-type: none"> <li>• <u>Coupled support*</u> 73% goes to animal agriculture (41% to beef and veal; 20% to milk and milk products; 12% to sheepmeat and goatmeat).</li> <li>• <u>Support in natural constraints areas</u></li> <li>• <u>Redistributive payments</u></li> </ul> <p style="text-align: center;">Cross compliance applies ⊗</p> <p style="text-align: center;"><b>OR</b></p> <p style="text-align: center;"><b>Small Farmers Scheme*</b> (simplified direct payment scheme = 40% of EU farmers)</p> <p style="text-align: center;"><b>Conditionality rules do not apply</b></p>		
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Source: European Commission, CAP Explained, direct payments for Farmers 2015-2020, May 2017.

Glossary:

EAGF: European Agricultural Guarantee Fund, also referred to as "Pillar 1"

EAFRD: European Agricultural Fund for Rural Development, also referred to as "Pillar 2"

Legend:

⊗ Implementation opportunity

\* Call for reform

### III. List of Pillar II Measures Improving Animal Welfare

This table lists a selection of animal welfare measures funded under Pillar II / National Rural Development Plans for the 2014 - 2021 period.

Covered Species	Country/Region	Type of Measure	Description	Payment	Assessment	Measure
Sheep	Ireland	Animal Care/Animal Health	Lameness control, parasite control, flystrike control, appropriate supplementation	€10 per eligible ewe and 66.66€ per LSU <sup>i</sup> /year.	Very much health-oriented so only improve animal welfare to the extent it improves health. Covers 80% of breeding ewes. Assessment by official authorities has not been conducted yet.	Not M14
Dairy Cattle	Germany / Mecklenburg-Western Pomerania	Housing Conditions	Support for higher investment and running costs and labeling of higher animal welfare products	€116 /LSU	Covered 264 dairy farms	Not M14
Pigs	Germany / Mecklenburg-Western Pomerania	Housing Conditions	Support for higher investment and running costs and labeling of higher	€182/LSU		Not M14

			animal welfare products				
Cattle	Germany / North Rhine-Westphalia	Outdoor access	Investments in keeping animals on pasture. Animals must have access to pasture between June 1 and October 1 with a minimum area of 0.2 hectares per LSU.			28% of beef cattle covered and 19% of dairy cows. 113,000 LSUs covered	Not M14
Pigs	Germany / North Rhine-Westphalia	Housing Conditions	Investments in keeping animals on straw with a minimum area of 0.2 hectares per LSU. 3-5% of housing area must have straw and stables must allow daylight in.	€30/LSU		85,000 LSUs covered (pigs and cattle)	Not M14
Cattle	Germany / North Rhine-Westphalia	Housing Conditions	Investments in keeping animals on straw with a minimum area of 0.2 hectares per LSU. 3-5% of housing area must	€30/LSU		85,000 LSUs covered (pigs and cattle)	Not M14

			have straw and stables must allow daylight in.			
Cattle	Germany / Hamburg and Saarland	Housing Conditions	Improve welfare during summer pasture: increased space, additional lying space, increased access to daylight and longer pasture period			M215
Cattle (dairy)	Germany / North Rhine-Westphalia	Outdoor Access	Daily access to summer grazing with at least 0.2 hectare/LSU	€50/LSU or €40 if beneficiary is also receiving organic payment, with an annual limit of €500	Covered 2,216 farms and 124,634 LSUs in 2016. An animal welfare assessment following the Welfare Quality standards conducted on a sample of farms shod "enhanced" and "excellent" score on two thirds of the farms.	M14
Pigs	Germany / North Rhine-Westphalia	Housing Conditions	Keeping animals on straw with daylight area in	€120/LSU per breeding pig or €75 per fattening pigs, breeders and forage piglets.	Covered 727 farms and 47,332 LSUs in 2016 for cattle and	M14

			the stable, free usable stable area, feeding areas with straw.	Payments are reduced for beneficiaries also receiving investments support	pigs. An animal welfare assessment following the Welfare Quality standards conducted on a sample of farms shod "enhanced" and "excellent" score on two thirds of the farms.	
Cattle	Germany / North Rhine-Westphalia	Housing Conditions	Keeping animals on straw, with daylight area in the stable, free usable stable area, feeding areas with straw. Cattle must be kept in the stable between January 1 and March 15 and between December 16-31.	€80/LSU for dairy cows; €55/LSU rearing cattle; €280/LSU per breeding bull. Payments are reduced for beneficiaries also receiving investments support	Covered 727 farms and 47,332 LSUs in 2016 for cattle and pigs. An animal welfare assessment following the Welfare Quality standards conducted on a sample of farms shod "enhanced" and "excellent" score on two thirds of the farms. Evacuation reports pointed to persisting issue related to animal	M14



					health (mastitis and lameness) for dairy cattle despite good results on animal behavior and housing conditions.	
Dairy Cattle	Germany / Baden Wurttemberg	Outdoor Access				M14
Pigs	Germany / Baden Wurttemberg	All	General Welfare Conditions and Awareness of Quality Schemes			M14
Egg Laying Hens	Germany / Baden Wurttemberg	All	General Welfare Conditions and Awareness of Quality Schemes			M14
Pigs	Germany / Lower Saxony and Bremen	Avoidance of mutilation	At least 70% of the herd must have an intact tail. Organization of training, provision of tool and equipment to farmers with the purpose of improving pig welfare.	€16.50/slaughtered animal	200,823 animals were covered. Payments amounted to €964,469. Farmers reported an increase in the natural behavior of pigs.	M14

Laying Hens	Germany / Lower Saxony and Bremen	Housing Conditions and avoidance of mutilations	Litter enhancement, fodder, veterinary checks, stocking densities and the prohibition of beak trimming	€500/LSU with a maximum number of 6,000 animals covered	482,353 animals were covered (1,640 LSU). Payments amounted to €814,992	M14
Sheep and Goats	Italy/Sardinia	Animal Care / Housing Conditions	Improving professional animal welfare knowledge; using mechanical milking (except for farmers manually milking), monitoring sub-clinical mastitis; analyzing Somatic Cell Count; controlling hoof disease; ensuring isolation of animal with hoof diseases; improving litter management and improving housing management.	€107 - €114 + €18 in transaction cost depending on the milking system.	Almost all Sardinian sheep and goat farms used the program, an equivalent of 2.3 million animals, or 446,386 LSU beyond the initial target of 335,720 LSU. In total, 13,243 farms received funding for animal welfare measures in Sardinia. It was reported to be a major driver of on-farm innovation and modernization. Overall, the measure contributed to a	M15 (former M14 in the 2007 - 2013 period)

significant decrease in both the number of animals suffering from mastitis and the number of deaths.

Pig	Italy/Sardinia	Housing Conditions	Professional animal welfare knowledge; improve management of indoor spaces for farms with slatted floor; improve the use of litter for farms with continuous floor and for farms with confined semi-feral livestock farming; and improve the management of confined semi-feral livestock farming for	€8 - €331 + €30 - €56 in transaction cost depending on the type of animals.	In total, 13,243 farms received funding for animal welfare measures in Sardinia. It was reported to be a major driver of on-farm innovation and modernization. Overall, the measure contributed to a significant decrease in both the number of animals suffering from mastitis and the number of deaths.	M15 (former M14 in the 2007 - 2013 period)
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			relevant producers.			
Beef Cattle	Italy/Sardinia	Animal Care and Housing Conditions	<p>Improve professional knowledge and better management practices of livestock; improve the use of indoor litter in semi-extensive livestock farming and farms with grated and slatted floor; and better management of indoor spaces for farms with grated/slatted floor and continuous floor.</p>	€72 - €155 + €8- €22 in transaction costs depending on the farming system.	<p>In total, 13,243 farms received funding for animal welfare measures in Sardinia. It was reported to be a major driver of on-farm innovation and modernization. Overall, the measure contributed to a significant decrease in both the number of animals suffering from mastitis and the number of deaths.</p>	M15 (former M14 in the 2007 - 2013 period)
Dairy Cattle	Italy/Sardinia	Animal Care and Housing Conditions	<p>Improve professional animal welfare knowledge and the management of indoor spaces; improve the use of</p>	€48 - €127 + €8- €23 in transaction costs depending on the farming system.	<p>In total, 13,243 farms received funding for animal welfare measures in Sardinia. It was reported to be a major driver of on-</p>	M15 (former M14 in the 2007 - 2013 period)

			indoor litter for farms with continuous floor		farm innovation and modernization. Overall, the measure contributed to a significant decrease in both the number of animals suffering from mastitis and the number of deaths.
Dairy Cattle (including buffaloes)	Italy/Calabria	Housing Conditions	Introduce cooling and litter-loose housing systems and/or increase the amount of space for each animal, drinking areas, and control synanthropic species.	€200/LSU/year Up to 30 LSUs: 100%; 31 to 100 LSUs: 90%; Above 100 LSUs: 80% of the total amount.	M14
Beef Cattle	Italy/Calabria	Housing Conditions	Increase the amount of space for each animal, drinking areas, and control synanthropic species and/or	€150/LSU/year Up to 30 LSUs: 100%; 31 to 100 LSUs: 90%; Above 100 LSUs: 80% of the total amount.	M14

			introduce cooling systems and replace stanchion-tied stables with loose litter housing systems.			
Pigs	Italy/Calabria	Housing Conditions	Increase the amount of space for each animal and/or pregnant sows, drinking areas and monitor temperature and humidity levels.	€170/LSU/year €150/LSU/year for pregnant sows	Up to 30 LSUs: 100%; 31 to 100 LSUs: 90%; Above 100 LSUs: 80% of the total amount.	M14
Sheep	Italy/Calabria	Housing Conditions	Increase the drinking areas and control synanthropic species and/or monitor the levels of temperature and air circulation, and increasing the minimum indoor surface area.	€200/LSU/year	Up to 30 LSUs: 100%; 31 to 100 LSUs: 90%; Above 100 LSUs: 80% of the total amount.	M14
Poultry	Italy/Calabria	Housing Conditions	Increase the amount of space for each animal	€190/LSU/year		M14

		and Outdoor Access	and ensure better outdoor access	Up to 30 LSUs: 100%; 31 to 100 LSUs: 90%; Above 100 LSUs: 80% of the total amount.		
Cattle	Italy/Liguria	Housing Conditions and Outdoor Access	Provision of water and feed adapted to the natural needs of animal husbandry and beyond legal requirements; increased space, flooring spaces, enrichment materials and natural light; outdoor access.	€100/LSU/year/requirements.  Participants must be new to the scheme and/or new beneficiaries of investments. The number of LSU they have is also taken into account.	Assessment of the scheme for the 2007 - 2013 period showed moderate impact on improving animal welfare with only 43 out of 2,374 livestock farms applying, due to the complexity of eligibility requirements.	M14
Sheep and Goat	Italy/Liguria		Provision of water and feed adapted to the natural needs of animal husbandry and beyond legal requirements and/or increased space, flooring spaces, enrichment materials and	€50/LSU/year for provision of water and feed, and outdoor access; €130/LSU/year for housing conditions.  Participants must be new to the scheme and/or new beneficiaries of investments. The number of LSU they have is also taken into account.		M14

		natural light and/or outdoor access.		
Pigs	Italy/Liguria	Provision of water and feed adapted to the natural needs of animal husbandry and beyond legal requirements and/or increased space, flooring spaces, enrichment materials and natural light and/or outdoor access.	<p>€40/LSU/year for provision of water and feed;          €180/LSU/year for housing conditions; €60/LSU/year for outdoor access.</p> <p>Participants must be new to the scheme and/or new beneficiaries of investments. The number of LSU they have is also taken into account.</p>	M14
Poultry	Italy/Liguria	Increased space, flooring spaces, enrichment materials and natural light and/or outdoor access.	<p>€180/LSU/year for housing conditions; €50/LSU/year for outdoor access.</p> <p>Participants must be new to the scheme and/or new beneficiaries of investments. The number of LSU they have is also taken into account.</p>	M14



Sheep	Sweden	Animal Care	Extra shearing; special procedures for introducing new animals to herds; group level feed planning; herd level production planning	SEK2,000 (€186)/LSU/programming period	No assessment was conducted.	M14
Pigs (sows)	Sweden	Animal Care	Production planning; analysis of feed and water; condition scoring (evaluation of the nutritional well- being of an animal); production routines	SEK2,000 (€186)/LSU/programming period	No assessment was conducted.	M14
Dairy Cattle	Sweden	Animal Care	Foot care: biannual cleaning of the hooves (at least four months apart); routine checks and follow- ups on the hooves; treatment of abnormal diseases. A	SEK220 (€20)/LSU/programming period	No assessment was conducted.	M14

			certified hoof inspector must perform work and a health hood report must be completed.			
Cattle	United Kingdom/Scotland	Animal Care	Control of Bovine viral diarrhoea; implementing biosecurity; maintaining bodily conditions; preventing lameness; mastitis control; control and prevention of diarrhoea and pneumonia: Johne's disease control; sheep scab control; implementing biosecurity.	Payments rates reflected income foregone and additional costs afforded for the programming period	No assessment was conducted.	M215 The measure was discontinued in the 2014-2020 programming period
Sheep and Goat	United Kingdom/Scotland	Animal Care	Reduction in mutilations; maintaining bodily conditions; preventing lameness; mastitis	Payments rates reflected income foregone and additional costs afforded for the programming period	No assessment was conducted.	M215 The measure was discontinued in the 2014-2020

	control; control and prevention of diarrhea and pneumonia: Johne's disease control; sheep scab control; implementing biosecurity.	programming period
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<sup>i</sup> Livestock Unit.