

NEWSLETTER CVA



THE EUROPEAN FARMERS' PROTEST AND THE COMMON AGRICULTURAL POLICY

Farmer's requests for more economic protection, less regulation and greater flexibility in the new Common Agricultural Policy ("CAP") have led to an increase in protests across Europe in recent months, which have become especially noticeable in recent weeks.

What began in France as a local protest has spread to most European countries. In Belgium, more than a thousand tractors blocked the main roads in Brussels; in Germany, around 2,000 tractors marched while attempting to block access to Frankfurt-am-Main airport; in Spain, thousands of farmers protested in various regions, with tractors blocking roads, motorways and access to logistics centers and ports. Farmers' displeasure reached the westernmost tip of Europe, where there were slow marches from the north to the south of Portugal, with blockades at the main borders, but also to Poland, Bulgaria, Hungary and several other European Union ("EU") Member States.

The root of the problem comes from the debts that burden farmers. Moreover, there is the uncertainty of results due to extreme weather conditions and the damage caused by unfair competition with much cheaper foreign products. Many farmers also complain about excessive EU regulation, particularly with regard to climate protection measures, high costs and lower yields. Besides, Russian aggression against Ukraine has worsened the situation, disrupting trade flows and causing oversupply.

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But where does the farmer's discontent comes from?

On 2 December 2021, the agreement to reform the CAP was finally adopted. The new legislation came into force on 1 January 2023 and aims to pave the way for a fairer, greener and more results-oriented CAP.

The new CAP's main objectives are to ensure **more targeted support for smaller farms**, to strengthen agriculture's contribution to the EU's **environmental and climate objectives** and to give Member States **more flexibility to adapt measures to local conditions**. These new provisions specify that each Member State must draw up a strategic plan setting out how it will use CAP funding to meet its specific targets.

Furthermore, the new CAP establishes new obligations for farmers, namely the **inclusion of ecological schemes in EU countries' plans**, in order to incentivize them to apply agricultural practices that benefit the climate and the environment. Member States will have to devote 25 per cent of their direct payments to these schemes.

In order to receive the CAP support to which they are entitled, farmers must respect a **reinforced set of nine standards beneficial to the environment and climate**, known as Good Agricultural and Environmental Conditions ("GAEC"), enshrined in Regulation 2021/2115, one of the three regulations from which the CAP 2023-2027 resulted.

Some examples are GAEC 8, which requires farmers to dedicate at least 4 per cent of arable land to non-productive activities, GAEC 7, which clarifies that crop rotations must be carried out on arable land, and GAEC 5, which stipulates that tillage must be managed to reduce the risk of soil degradation and erosion.

Farmers have not welcomed the changes to the CAP with open arms. They argue that while on the one hand they are being asked to farm more sustainably in order to combat the climate crisis that is affecting us all, they are also being asked to continue to produce more and as cheaply as possible in order to be able to compete with the foreign market, which does not have to comply with production restrictions and climate measures. They feel placed in an impossible situation.

They also point out that **these measures have made the European agricultural sector less competitive against foreign imports and that there is too much EU administration and regulation**.

Although the discontent is shared by all European farmers, it is not easy to consider these demonstrations as a unified protest, since several of the triggers for the start of the protests were national reforms. As a result, farmers' main concerns vary from country to country.

German farmers, for example, are protesting against government cuts to diesel subsidies, which they say could bankrupt them, while French farmers are calling not only for the CAP to be made more flexible, but also for better wages, less bureaucracy, clarity in public policies and more protection against foreign competition. In the Netherlands, farmers are rebelling against the obligation to reduce nitrogen emissions, and in Spain they are calling for solutions to deal with the problems arising from the drought, the war in Ukraine, CAP measures and various labour issues.

In Portugal, farmers are criticizing the Government's actions, accusing it of forgetting the agricultural sector and arguing that the Common Agricultural Policy Strategic Plan ("PEPAC") should be adapted to the needs of the rural world. The cuts of 35 per cent in the payment of support for organic farming eco-schemes and 25 per cent for integrated production, days before the deadline for their implementation, sparked protests across the country. Despite the fact that the Portuguese government has advanced with a package of income support for farmers worth more than 400 million euros, which aims is to mitigate the impact of the drought and strengthening PEPAC, the street protests continue.

However, there are several complaints common to all European farmers, particularly with regard to the new CAP rules that imply production restrictions in order to meet climate targets, as well as the European Commission's proposal to halve the use of pesticides in agriculture by 2030, a central part of European environmental legislation. Farmers argue that these measures facilitate unfair competition and create an unregulated market, from which imports are mostly made to third countries, such as Ukraine, at a much lower price.

The war in Ukraine has also brought deep discontent to many European farmers.

In Poland, protests have centered on the border with Ukraine, demanding policies to protect against imports of cheaper Ukrainian agricultural products, while in Romania farmers are demanding lower taxes and subsidies for the sector. In Bulgaria, the sector has been manifesting against the lack of support in the face of rising production costs and low profit margins, as well as against the EU's ecological regulations, which favor Ukrainian products over increasingly expensive European products.

For all these reasons, two questions remain on the minds of farmers all over Europe: how can they produce more while fighting climate change? How can they avoid unfair competition from foreign countries?

European farmers exempted from some EU rules

On 13 February 2024, the European Commission officially adopted an Implementing Regulation which grants a partial exemption for European farmers from the conditionality

rule on land lying fallow. The Regulation entered into force on 14 February, and will apply retroactively as of 1 January, for a period of one year.

The partial exemption brings more flexibility, as requested by Member States in order to better respond to the challenges facing EU farmers.

One of the GAECs requires, as we have seen, that a minimum proportion of arable land be devoted to non-productive areas or features. The European Commission has provided for the possibility of EU farmers being exempt from this requirement and continuing to be eligible for their basic direct payment under the CAP. In addition, the President of the European Commission, Úrsula Von der Leyen, announced the withdrawal of the proposal to halve the use of pesticides in agriculture by 2030.

These and other measures on the part of the Commission, which tend to "freeze" or even suspend, as in the case of pesticides, measures, particularly within the framework of Green Europe, that are considered harmful to many sectors and damaging in terms of European public opinion, have been seen by commentators and analysts as a way of relieving pressure in a year of European elections (on Ursula van der Leyen herself, who is running for re-election).

The Commission's proposals are designed to maintain a balance between the well-being of farmers and the protection of biodiversity and soil quality. As Ursula Von der Leyen argued, *"The measure adopted today offers additional flexibility to farmers at a time when they are facing multiple challenges. We will continue to engage with our farmers to ensure that the CAP strikes the right balance between meeting their needs and continuing to provide public goods to our citizens"*.

It remains to be seen whether the Commission - and the European Union in general -, which is under the pressure of protests and discontent, won't be forced to back down.

Cruz Vilaça Advogados will continue to follow these events closely and provide explanations that can enable a better understanding of these issues in the light of the law, the economy and the different European policies.