

Legal proposals for the CAP after 2020 - A first assessment regarding water protection and climate adaptation

by Maria Berglund, Thomas Dworak and Guido Schmidt (Fresh-Thoughts Consulting GmbH)

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Introduction

On 1 June 2018 the Commission presented a single legal proposal for the future CAP: “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 Council¹.

The emphasis of the new Proposal, as outlined in the November 2017 Communication on the Future of Food and Farming, is on simplification, targeted action and giving Member State (MS) greater flexibility in tailoring financing under the CAP. The impetus for the revised CAP is the argument that the current CAP delivery system relies on detailed requirements at EU level, with too prescriptive rules that are not always suitable to delivering the desired results and EU added value.

To this end, the CAP proposal calls for MS to develop a singular CAP Strategic Plan (with room for regional plans) that covers both direct payments (Pillar 1) and rural development payments (Pillar 2). The proposal introduces a number of new elements, e.g. the eco-schemes and sectoral interventions under Pillar 1 and streamlines the measures under the rural development interventions. A detailed analysis of each element is presented in the table below.

This document presents a first assessment of the CAP proposal in terms of its contribution to achieving water resource protection and promoting adaptation to climate change. The document is split into three sections: 1) a summary highlighting the budgetary changes and brief conclusions on how the CAP proposal address environmental objectives in general and water management and adaptation to climate change, specifically; 2) a brief summary of the on-going discussions in the Agriculture and Fisheries Council; and 3) an analysis of the CAP proposal per article.

¹ See https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/future-cap_en

1. Summary

Budget

The CAP proposal foresees a reduction in the total budget for rural development interventions from the current €99.5 billion (period 2014-2020) to €78 billion. Co-financing for measures under Art. 65 (agri-environment-climate), Art. 67 (Non-productive investments only) and Art. 68 (WFD and N2K payments) will receive higher co-financing rates of 80% compared to the current period (75% under Directive 1305/2013). DG Agriculture has indicated that this higher co-financing should ensure that the budget for environment and climate protection should therefore stay the same, but does expect that MS contribute more to the budget.

What does the CAP proposal mean for achieving environmental objectives in general?

- 30% of rural development interventions must be earmarked for addressing environmental objectives, an increase from Directive 1305/2013.
- For the CAP Strategic Plan, MS would be required to include an overview of the environmental and climate architecture of the Strategic Plan, describing the links between conditionality and env. and climate objectives, and an explanation of how the environment and climate architecture of the CAP Strategic Plan is meant to contribute to already established long-term national targets set out in or deriving from legislative instruments (Annex XI), including the WFD, the Nitrates Directive, the Renewable Energy Directive and the Sustainable Use of Pesticides Directive. This ensures transparency in how water and adaptation issues are being addressed.
- MS will now to ensure that the competent authorities for the environment and climate are effectively involved in the preparation of the environmental and climate aspects of their CAP Strategic Plan.
- The CAP proposal stipulates that MS must show a greater ambition in achieving environmental objectives in comparison to the 2014-2020 programming period. This could clearly have a positive impact on including water management and climate change adaptation actions within the CAP Strategic Documents. However, the article provides little details how this would be measured and whether this would translate into enhanced protection for the water environment or greater adaptation efforts – this is up to the individual MS
- The CAP proposal includes a Performance Bonus, which would withhold money from MS until they demonstrate that their Strategic Plans have achieved 90% of their target value by 2025. This is a good incentive to encourage MS to offer measures that benefit water management and climate adaptation. On the other hand, if a MS has a low ambition to begin with – i.e. the target indicators for water management or climate adaptation measure coverage is not high – then this provision will have little impact.

Only detailed specification of the measures at MS level and specific allocation of funds between measures will show the level of ambition to protection water and adapt to climate change. The analysis of the 2007-2013 and 2014-2020 RDPs showed little changed in the measure offered and little innovation.

What does the CAP proposal mean for water management?

- Within the proposed **enhanced conditionality**, parts of the WFD Article 11 (PoM) related to controlling phosphorus pollution have been introduced under cross compliance, as well as adherence to the Sustainable Use of Pesticides Directive. In addition, a few new good environmental and agriculture conditions (GAECs) have been included, such as protection of wetlands. However, from a water perspective the proposal does not go far enough in terms of tying direct payments with full adherence to WFD Article 11 and introducing hydromorphological standards within the GAECs.
- The proposed **eco-schemes** offer an additional opportunity to include water-related agri-environmental measures. While the article is linked to addressing environmentally related objectives, it is not specifically linked to achieving objectives of existing EU legislation, for example the WFD or the Floods Directive (FD). Moreover, the proposal does not earmark a certain percentage of the direct payments budget to eco-schemes, which means that the level of ambition will vary widely among the MS.
- **Sectoral interventions** offer MS the opportunities to finance actions on water efficiency and pesticide applications, which have the potential to have positive impacts on water quantity and quality issues. However, there are no environmental safeguards in place under these interventions to require that investments in irrigation lead to effective water savings. This is a serious gap in the CAP proposal. In addition, under sectoral interventions drainage activities could be financed; these are not linked to adherence to WFD Art. 4 (7), indicating a risk that cumulative impacts of such interventions are not considered at basin-wide scale.
- **Rural development interventions** again offer financing for agri-environment-climate measures, organic farming, cooperation efforts, non-productive investments and paying for disadvantages related to implementation of the WFD. Under productive investments, the CAP proposal specifies that irrigation can only be financed if it does not impact water bodies in less than good status. However, the article (Article 68) is not fully clear how this would be operationalized. Support for implementing the Floods Directive is not explicitly mentioned but can be financed under non-productive investments. It is a missed opportunity to not more plainly include issues under the Floods Directive. Finally, ex-ante condition 5.2 on adhering to WFD Article 9 Water pricing has been removed. Although RBMPs are all in place, not all MS are fully adhering to Art. 9. As such, EAC 5.2 should still be in place to prevent irrigation financing where adequate pricing of agriculture water abstraction is not secure.
- The **Common Monitoring and Evaluation Framework** has not been changed, and the target and result indicators focus solely on land coverage and not on actual results. Despite the emphasis of the CAP proposal on targeted action, the indicators are not designed to measure, for example, load reductions of nutrients and pesticides in water bodies or the improvements in ecological flows or quantitative status of GWBs. This is a missed opportunity to include indicators that measure effectiveness and to link indicators with those under the WFD.

What does the CAP proposal mean for climate change adaptation?

- Adaptation issues are largely missing under the proposed **enhanced conditionality**. The GAECs largely focus on mitigation.
- The proposed **eco-schemes** offer an additional opportunity to include measures to adapt to climate change. However, it will be up to the MS to include such measures. Moreover, the proposal does not earmark a certain percentage of the direct payments budget to eco-schemes, which means that the level of ambition will vary widely among the MS.
- **Sectoral interventions** offer MS the opportunities to finance actions on adaptation to climate change and renewable energy. In addition, as mentioned in the section on water management, the interventions also promote water efficiency, which is an adaptation measure.
- **Rural development interventions** offer financing for agri-environment-climate measures, cooperation efforts, non-productive investments like restoration of land after natural disasters or prevention of damage, as well as risk management tools. MS have the potential to introduce adaptation measures under the agri-environment-climate measures or non-protective investments. The intervention on risk management could include insurance schemes, which are an adaptation measure to climate change. It is a positive change that the measure is mandatory in the CAP proposal as it was previously voluntary.
- The **Common Monitoring and Evaluation Framework** has not been changed, and does not include indicators to measure adaptation to climate change. This is a major gap in being able to understand the impact the Strategic Plans could have on adaptation efforts.

2. Discussions in the Agriculture and Fisheries Council

The CAP proposal is currently being debated in Parliament and within the Agriculture and Fisheries Council. A recent Progress Report from the Agriculture Council (dated 10 October 2018)² indicates that the Member States are seeking significant changes to the Commission CAP proposal. Some of these changes have the potential to negatively reduce the contribution of the CAP to water resource protection and adaptation to climate change. Specifically, the progress report indicates that MS would like the following:

- **Enhanced conditionality (i.e. cross-compliance)**
 - New elements under enhanced conditionality should be deleted or made optional under eco-schemes and agri-environment. This includes the WFD, Sustainable Use of Pesticides, GAEC on protection of peatlands and wetlands, as well as the Farm Sustainability Tool
 - Small farmers should be exempt from conditionality entirely – this is very dangerous as a) what defines a small farmer and b) this would likely make most of farmers in BG, RO and others with small farm structures exempt
- **Eco-schemes:** Should be voluntary and not mandatory
- **Sectoral interventions:** Focus of objectives in the fruits and vegetables sector focuses too much on protection of environment and mitigation and adaptation and should rather focus

² See: <http://data.consilium.europa.eu/doc/document/ST-12892-2018-INIT/en/pdf>

on optimizing production and improving competitiveness. Requiring 20% of the measure's budget to be earmarked for environment and climate objectives should be removed.

- **Rural Development interventions:**
 - AECMs with a shorted commitment period (3 years) should be allowed
 - Article 68 on ineligible investments – MS do not agree with the criteria for irrigation and large infrastructure regarding prohibiting investments in areas where water bodies are failing good status.
 - Article 66 payments for natural constraints should be considered in the Article 86 (2) requirement that 30% of payments go to environmental objectives.
- MS want further clarification on Art. 92 on requirement to have a greater contribution to the environment

The information in the recent progress report is an indication that many of the positive improvements to the CAP for environment and climate issues are at risk of being watered down or eliminated.

3. Assessment of the CAP proposal

The table below presents an analysis of the CAP proposal and the articles most relevant for environment and climate change adaptation action. The provisions of the CAP proposal are assessed in terms of how their potential to promote or harm action in the two mentioned policy fields. In addition, the analysis assesses the CAP proposal in light of the current Directives governing the CAP (specifically Directive 1305/2013 on payments for rural development and Directive 1307/2013 on direct payments).

KEY

+ Improvements from previous regulations in terms of positive impacts on water and/or climate adaptation issues

+/- Whether positive or neutral depends on MS implementation

- Potential negative aspects regarding water management or climate change adaptation

No + or – indicates no change from Directive 1305/2013 (Rural Development Regulation) and Directive 1307/2013 (Rules for direct payments)

Article of the CAP proposal	Water	Climate Change Adaptation
Art 5b – General objectives to bolster environmental care and climate action and to contribute to the environmental- and climate-related objectives of the Union;	Sustainable water management is mentioned as in Directive 1305/2013	+ Climate adaptation was previously a cross-cutting objective with not a defined objective upon which measures have to be designed to achieve. Adaptation is now specifically mentioned under Article 6 (1) (d)
Art 6(1), d, e (d) contribute to climate change mitigation and adaptation, as well as sustainable energy; (e) foster sustainable development and efficient management of natural resources such as water, soil and air;		
Article 7 indicators; Article 115 Setting up the performance framework – this operationalizes Article 7; Annex 1 Common Monitoring and Evaluation Framework – details on indicators as prescribed by Article 7.	<p>As under Directive 1305/2013, Member States should assess the achievement of objectives using indicators. Member States are free to design result indicators on the basis of national legislation. An assessment of the 2014-2020 RDPs shows that most MS did not include additional result indicators to assess environmental and climate objectives.</p> <p>As under Directive 1305/2013, the performance framework shall include a set of common context, output, result and impact indicators.</p> <p>Indicators under the CMEF are weak in terms of measuring the effectiveness of measures. The target indicators focus on number of hectares of land or %</p>	

Article of the CAP proposal	Water	Climate Change Adaptation
	<p>of land receiving payments for environmental related measures. This does not provide indications whether the measures are having their intended impacts, i.e. reducing water pollution, achieving effective water savings, etc.</p>	<p>- As under Directive 1305/2013, there is no specific adaptation impact indicator, only for mitigation and energy efficiency</p>
<p>Article 11 Conditionality, Article 12 Obligation of MS relating to GAECs, Annex III - details on SMRs and GAECs</p>	<p>+/- Introduction of WFD 11 (3) (e) on abstraction authorisation. This replaces the GAEC on water permitting under Directive 1307/2013</p> <p>+ Introduction of WFD Article 11 (3) (h) on diffuse pollution control from phosphorus as a SMR. Positive to introduce requirement to take measure to reduce phosphorus pollution</p> <p>Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources, Articles 4 and 5. The ND has been part of cross-compliance for over a decade</p> <p>- Missed opportunity to include all elements of WFD Article 11 (Programme of Measures) into the SMRs</p> <p>- Missed opportunity to introduce GAECs related to hydromorphological pressures from agriculture</p> <p>+ SMR 12 and 13: Introduction of Article 12 of the Sustainable Use of Pesticides Directive (restrictions on use in protected areas defined under WFD) will help to reduce negative impacts of pesticides on WBs</p> <p>+ New GAEC 2 on protection of wetlands not only protection carbon-rich soils but can also help with ensuring non-deterioration of such WBs as prescribed under the WFD</p> <p>GAEC 4 Establishment of buffer strips along water courses reduces soil run off</p>	<p>+/- Introduction of WFD 11 (3) (e) on abstraction authorisation. This replaces the GAEC on water permitting under Directive 1307/2013</p> <p>+GAEC 8 on crop rotation could help reduce the spread of pathogens</p>

Article of the CAP proposal	Water	Climate Change Adaptation
	<p>– was included already under Directive 1307/2013</p> <p>+/- New GAEC 5 on Farm Sustainability Tool for Nutrients has the potential to help reduce diffuse pollution through better targeted use of nutrients. The positive impact will depend on how much the app is geared towards reducing diffuse pollution versus optimizing nutrient content of soils to increase crop yield</p> <p>GAEC 9 Minimum share of agricultural area devoted to non-productive features or areas could help to reduce diffuse pollution in those areas.</p> <p>SMR 6 on prohibiting the use of certain hormones in stock farming has the potential to reduce the negative impacts of those substances in water bodies.</p>	
<p>Article 13 on Farm Advisory Services</p> <p>Article 13 (2), (4) a b, c</p>	<p>(Background: Article 15 of Directive 1305/2013 enabled FAS to cover at least one of the mentioned elements, including advice on implementation of WFD article 11 (3).)</p> <p>Article 13 (2) emphasizes link to innovation.</p> <p>+ The wording has been strengthened from allowing MS to select <i>one of the mentioned elements</i> to requiring <i>at least</i>. This can be interpreted as requiring all the elements listed.</p> <p>+ Advice on the WFD in general and not just a selected article under conditionality must now be a part of FAS.</p> <p>+ Advice on preventing development of anti-microbial resistance in animals. The less use of antibiotics, the hopefully fewer inputs into water</p> <p>As under Directive 1305/2013, the FAS must cover all requirements and</p>	<p>As under Directive 1305/2013, the FAS must cover advice on cross compliance.</p> <p>- No specific adaptation support is part of the FAS</p>

Article of the CAP proposal	Water	Climate Change Adaptation
	standards under conditionality and conditions for support schemes	
<p>Art 14 Interventions under Pillar 1. Article 14 (7) b on coupled payments for cotton; Article 34-38 detailing information on coupled payments for cotton</p>	<p>- These articles regulate the cotton subsidies in BG, EL, ES and PT. These countries are known to have water scarcity issues due to in part to agriculture irrigation systems. These payments negatively affect the ability to achieve good quantitative status of groundwater and ensure appropriate ecological flows of surface water bodies. In addition, cotton production is pesticide intensive, which has potential negative consequences on ecological status. The CAP proposal missed an opportunity to link such payments with requiring such farmers to apply for/implement eco-schemes or agri-environmental measures, e.g. to reduce pesticide applications or apply for/implement irrigation modernisation/effective water saving measures under sectoral interventions or under agri-environment-climate schemes.</p> <p>- Cotton production in Europe is still taking places due to these payments. In the context of the need to adapt to climate change, the scheme promotes maladaptation without considering that investments in such countries is not sustainable considering the poor water resources.</p>	
<p>Art 15 Reduction of payments</p>	<p>With Art 15. the payment to farmers is reduced from 60.000 Euros. The money saved has to be spent to finance types of interventions under the rural development interventions, as specified in Chapter IV by means of a transfer. Depending on the strategic plan of the MS, this can be used for increased funding of environmental, climate and other management commitments;</p>	
<p>Article 28 – Schemes for the environment and climate (Eco-schemes)</p> <p>Wherein Member States shall establish the list of agricultural practices beneficial for the climate and the environment.</p> <p>4. Those practices shall be designed to meet one or more of the specific environmental- and climate-related objectives laid down in points (d), (e) and (f) of Article 6(1).</p>	<p>+/- Preamble 31 emphasizes that the eco-schemes are intended to increase the environmental delivery by respecting local needs and farmers' actual circumstances. References to using Eco-schemes for entry-level measures as a basis for receiving money for more ambitious measures under Article 68. However, this is left to the MS to decide.</p> <p>+/- A newly introduced scheme compared to the previous cycle. Member States are required to offer these schemes although which measures to offer is up to the MS. Adaptation to climate change and sustainable use of water resources are included as objectives. This approach is positive in terms of addressing specific needs in a MS but might lead to very different situations across borders resulting in different levels of ambitions as regard to the various environmental objectives.</p> <p>+ MS can include incentive payments, i.e. going beyond costs incurred and income forgone, which could point to significant take-up by farmers of such measures.</p>	

Article of the CAP proposal	Water	Climate Change Adaptation
	<p>- The current Regulation does not ringence any budget towards the implementation of Article 28 so ambition among the MS will likely vary considerably.</p> <p>- The selection of schemes for the environment and climate does not need to be based on the implementation needs coming from other legislation.</p>	
<p>Article 42 on objectives for investments for fruits and vegetables</p>	<p>+ objectives of investments include developing, implementing and promoting methods of production respectful of the environment, environmentally sound cultivation practices and production techniques, sustainable use of natural resources in particular protection of water, soil, air, biodiversity and other natural resources; those objectives relate to the specific objectives set out in points (e) and (f) of Article 6(1);</p>	<p>+ objectives of investments include contributing to climate change mitigation and adaptation, as set out in point (d) of Article 6(1);</p>
<p>Article 43 on types of interventions for investments for fruits and vegetables</p> <p>(Background: Directive 1305/2013, Art. 46 on Investments in Irrigation required that MS seeking co-financing for irrigation investments (programmed under the priority of water efficiency (Priority 5a)) had to have a RBMP and water metering in place; investments in existing irrigation are only possible if an ex-ante assessment shows the investment leads to a potential water savings of a minimum of between 5 % and 25 %; investments in irrigation are only possible near GWBs and SWBs in less than good status due to quantitative status are only possible if an ex-ante assessment shows the investment leads to an effective</p>	<p>+ includes a) investments in tangible and non-tangible assets, in particular focused on water saving...; (b) research and experimental production, in particular focused on water saving, reduction of risks and impacts of pesticides use; and (i) actions to improve use and management of water, including water saving and drainage;</p> <p>+ advisory services and technical assistance, in particular concerning sustainable pest control techniques, sustainable use of pesticides and climate change adaptation and mitigation;</p> <p>+training and exchange of best practices in particular concerning sustainable pest control techniques, sustainable use of pesticides and contributing to climate change adaptation and mitigation.</p> <p>- there is no mention of any required minimum water savings</p> <p>- In comparison to agri-environment-climate schemes (Article 65), there is no requirement that such investments cannot take place near water bodies in poor status. This gap could easily be exploited by MS to finance irrigation</p>	<p>+ includes actions to save energy, increase efficiency and renewable energy use.</p> <p>+ includes actions to boost the use of fruit and vegetable varieties adapted to changing climate conditions; adapt to climate change and to increase renewable energy use; and training and exchange of best practices in particular concerning contributing to climate change adaptation</p> <p>+ actions on water saving a positive adaptation measure IF done correctly and requiring effective water savings per farm.</p> <p>- In comparison to agri-environment-climate schemes (Article 65), there is no requirement that such investments cannot take place near water bodies in poor status. This gap could easily be exploited by MS to finance irrigation under Art. 43 as opposed to Art. 65 to avoid considering requirements of the WFD. This is a real risk because under Directive</p>

Article of the CAP proposal	Water	Climate Change Adaptation
reduction in water use, at the level of the investment, amounting to at least 50 % of the potential water saving made possible by the investment.)	<p>under Art. 43 as opposed to Art. 65 to avoid considering requirements of the WFD. This is a real risk because under Directive 1305/2013 the fact that Art. 46 on water savings was only applicable to P5a investments and not to P2b investments led to many southern RDPs only financing irrigation under P2 to avoid having to apply Art. 46.</p> <p>- investments in drainage can be financed but there is no explicit link to requiring local agencies to assess the cumulative impacts of such investments in water bodies and for the need to potentially carry out a WFD Art. 4 (7) process if an initial assessment indicates that negative impacts could occur. Despite the publication of the Guidance on WFD Art. 4 (7) in 2017, there is still a risk that some local agencies have not fully understood the implications of agriculture drainage activities.</p>	1305/2013 the fact that Art. 46 on water savings was only applicable to P5a investments and not to P2b investments led to many southern RDPs only financing irrigation under P2 to avoid having to apply Art. 46.
Article 44 on operational programmes to facilitate investments in the fruit and vegetable sector	+ Point 7: at least 20% of the budget must be earmarked for interventions related to Member States shall ensure that (a) at least 20% of expenditure under operational programs covers the interventions linked to the objectives (Article 42 (d), (e) related to sustainable use of natural resources in particular protection of water and contributing to climate change adaptation	
Article 55 on objectives and types of intervention in the hops sector	+ objectives include sustainable use of nature resources and protection of water	+ objectives include climate change adaptation
Article 56 on objectives in the olive oil and table olives sector	+ includes objectives like reduction of environmental impact of and contribution to climate action through olive cultivation; that objectives relate to the specific objectives set out in points (d) and (e) of Article 6(1);	
Art 59 on objectives in other sectors	+ Objectives include, developing and implementing methods of production respectful of the environment, ..., pest resilient and environmentally sound cultivation practices, production techniques and production methods, environmentally sound use and management of by-products and waste, sustainable use of natural resources in particular protection of water, soil and other natural resources.	+ objectives included climate change mitigation and adaptation,
Article 60 on types of interventions in the hops	+ (a) investments in tangible and non-tangible assets including (ii)	+ (a) investments in tangible and non-tangible assets including (ii)

Article of the CAP proposal	Water	Climate Change Adaptation
<p>sector, the olives sector, and other sectors</p> <p>Other sectors can include cereals, rice, fodder, among others. Other sectors essentially cover most production types in the EU so a wide coverage.</p> <p>(Background: Directive 1305/2013, Art. 46 on Investments in Irrigation required that MS seeking co-financing for irrigation investments (programmed under the priority of water efficiency (Priority 5a)) had to have a RBMP and water metering in place; investments in existing irrigation are only possible if an ex-ante assessment shows the investment leads to a potential water savings of a minimum of between 5 % and 25 %; investments in irrigation are only possible near GWBs and SWBs in less than good status due to quantitative status are only possible if an ex-ante assessment shows the investment leads to an effective reduction in water use, at the level of the investment, amounting to at least 50 % of the potential water saving made possible by the investment.)</p>	<p>improvement of the use of and management of water, including water saving and drainage; (ix) reducing risks and impacts of pesticide use; (d) organic production; (xi) creating and maintaining habitats favourable to biodiversity;</p> <p>- there is no mention of any required minimum water savings</p> <p>- In comparison to agri-environment-climate schemes (Article 65), there is no requirement that such investments cannot take place near water bodies in poor status. This gap could easily be exploited by MS to finance irrigation under Art. 43 as opposed to Art. 65 to avoid considering requirements of the WFD. This is a real risk because under Directive 1305/2013 the fact that Art. 46 on water savings was only applicable to P5a investments and not to P2b investments led to many southern RDPs only financing irrigation under P2 to avoid having to apply Art. 46.</p> <p>- investments in drainage can be financed but there is no explicit link to requiring local agencies to assess the cumulative impacts of such investments in water bodies and for the need to potentially carry out a WFD Art. 4 (7) process if an initial assessment indicates that negative impacts could occur. Despite the publication on WFD Art. 4 (7) in 2017, there is still a risk that some local agencies have not fully understood the implications of agriculture drainage activities.</p>	<p>improvement of the use of and management of water, including water saving and drainage; (iii) preventing damage caused by adverse climatic events and promoting the use of varieties and management practices adapted to changing climate conditions; (b) advisory services and technical assistance, in particular regarding climate change adaptation and mitigation;</p> <p>+ actions on water saving a positive adaptation measure IF done correctly and requiring actual water savings per farm.</p> <p>- In comparison to agri-environment-climate schemes (Article 65), there is no requirement that such investments cannot take place near water bodies in poor status. This gap could easily be exploited by MS to finance irrigation under Art. 43 as opposed to Art. 65 to avoid considering requirements of the WFD. This is a real risk because under Directive 1305/2013 the fact that Art. 46 on water savings was only applicable to P5a investments and not to P2b investments led to many southern RDPs only financing irrigation under P2 to avoid having to apply Art. 46.</p>
<p>Article 61 on operational programmes for hops, olives and other sectors</p>	<p>- The operational programmes are not required to earmark 20% of financing for water protection and climate change adaptation like for the fruits and vegetable sector</p>	

Article of the CAP proposal	Water	Climate Change Adaptation
	- Operational Programs might not be submitted by environmental NGOs in agreement with farmers	
Article 64 on rural development investments	Includes agri-environment measures, investments, cooperation, and knowledge exchange as under Directive 1305/2013.	
Article 65 on agri-climate-investment measures	<p>Payments for improving the environment. No changes from Directive 1305/2013.</p> <p>Preamble 38 indicates that management commitments may include organic farming premia for the maintenance of and the conversion to organic land; payments for other types of interventions supporting environmentally friendly production systems such as agro-ecology, conservation agriculture and integrated production; forest environmental and climate services and forest conservation; premia for forests and establishment of agroforestry systems; etc.</p> <p>- there is no specific mention of restoration measures to address flood prevention; however, in theory Art. 65 could be used for such measures</p>	
Article 66 on payments for natural or other area-specific constraints	<p>- Payments should pursue objectives under Art 6 (1) so not specific to environmental objectives within Art. 6 (1)</p> <p>- As with Directive 1305/2013, payment is not tied to any conditions going beyond conditionality. Missed opportunity to require farmers receiving extra funds to ensure that activities do not lead to degradation of water resources. Missed opportunity to introduce adaptation practices to account for farmers in such areas being potentially more vulnerable to climate changes. It is also a missed opportunity to link this measure with areas frequently flooded – such a link could open up MS/Regions to reactivate floodplains while compensating farmers.</p>	
<p>Article 67 on area-specific disadvantages resulting from certain mandatory requirements.</p> <p>Linked to requirements resulting to implementation of nature policies and WFD</p>	<p>- text on what are WFD obligations has been adapted and potentially dumbed down. Under Directive 1305/2013, the measure required that the payment only covers disadvantages that impose major changes in type of land use, and/or major restrictions in farming practice resulting in a significant loss of income has been removed. The requirement may have been removed to reduce the hurdle of MS applying this article, as in the last programming period this option was hardly used by the MS/Regions.</p> <p>- Missed opportunity to include payments for disadvantages resulting from implementation of the FD</p>	
Article 68 investments	Replaces the previous Article 17 and Art. 46 of Directive 1305/2013	

Article of the CAP proposal	Water	Climate Change Adaptation
<p>(Background: Directive 1305/2013, Art. 46 on Investments in Irrigation required that MS seeking co-financing for irrigation investments (programmed under the priority of water efficiency (Priority 5a)) had to have a RBMP and water metering in place; investments in existing irrigation are only possible if an ex-ante assessment shows the investment leads to a potential water savings of a minimum of between 5 % and 25 %; investments in irrigation are only possible near GWBs and SWBs in less than good status due to quantitative status are only possible if an ex-ante assessment shows the investment leads to an effective reduction in water use, at the level of the investment, amounting to at least 50 % of the potential water saving made possible by the investment.)</p>	<p>+/- Article 68, 3 (f) includes specifics on ineligible investments and replaces Art. 46. It stipulates that investments in irrigation which are not consistent with the achievement of good status of water bodies, as laid down in the WFD, including expansion of irrigation affecting water bodies whose status has been defined as less than good in the relevant river basin management plan cannot be financed. This provision is not fully clear for the following reasons:</p> <ul style="list-style-type: none"> • Reference is made to status in general – it is not clear whether this provision would also apply to WBs failing ecological or chemical status or just those linked to less than good quantitative status. • It is also not fully clear how the Commission intends to operationalize the provision “not consistent with achievement of good status” – whether this would completely prohibit investments in WBs in less than good status, whether this would consider exemptions under Art.4 WFD or not, or whether investments would be allowed that showed water savings. <p>It is very positive that this Article forbids expansion of irrigation near WBs failing good status. This is a more stringent provision over Art. 46, which allowed investments so long as 50% effective savings could be achieved. However, there is no reference to minimum water savings. Furthermore, the provision requiring metering has been eliminated.</p>	<p>+ includes investments in the restoration of agricultural or forestry potential following natural disasters or catastrophic events and investments in appropriate preventive actions in forests and in the rural environment.</p>
<p>Art 70 Risk management tools</p>		<p>The article allows to grant support for risk management tools. This includes also insurance schemes which are an adaptation measure to climate change. Positive change is that the measure is mandatory.</p>
<p>Article 71 cooperation</p>	<p>- While the article refers to support to cooperation to achieve Article 6 objectives (and therein inherently adaptation), Directive 1305/2013 specifically stipulated that support would be paid for joint action on efficient water management.</p>	<p>- While the article refers to support to cooperation to achieve Article 6 objectives (and therein inherently adaptation), Directive 1305/2013 specifically stipulated that support would be paid for joint action on adaptation.</p>

Article of the CAP proposal	Water	Climate Change Adaptation
	<p>For their 2014-2020 RDPs, few MS took advantage of the cooperation measure to implement large-scale projects like floodplain restoration. The CAP proposal does not include any wording or incentives to encourage MS to do so.</p>	
<p>Article 72 Knowledge exchange and information</p>	<p>+ Member States may cover costs of any relevant action to promote innovation, access to training and advice and exchange and dissemination of knowledge and information which contribute to achieving the specific objectives set out in Article 6. This could include exchanges on water management and adaptation. It is up to the Strategic Plan to specify.</p>	
<p>Article 73 on Selection of operations</p>	<p>As with Directive 1305/2013, MS will not have to introduce selection criteria for environmentally focussed operations. In their 2014-2020 RDPs, many MS did not introduce eligibility conditions or selection criteria to target measures while at the same time resisting encouragements to introduce additional water-related measures due to budgetary issues. It is a missed opportunity to require that measures are designed in a more targeted way, e.g. to protected areas, by requiring selection criteria also for Article 65 investments.</p>	
<p>Article 86 Minimum and maximum financial allocations</p>	<p>+ At least 30% of the total EAFRD contribution to the CAP Strategic Plan needs to be reserved for interventions addressing the environmental- and climate-related objectives set out in points (d), (e) and (f) of Article 6(1) of this Regulation. A positive change over Directive 1305/2013 is that measures under Art. 66 (area-based constraints) do not count towards this sum.</p> <p>However, since there is the possibility of reverse modulation for some countries, the second pillar with targeted funding may not appear to have sufficient funding to address the pressing water management and adaptation needs.</p>	
<p>Article 87 tracking climate expenditures</p>		<p>- the simplified methodology used by the regulation for tracking climate expenditures does not differentiate between mitigation and adaptation, so it is unclear the place of adaptation into this tracking. Furthermore, it places a significant weight (40%) on basic income support and payments (40%), thus assuming significant climate change action through conditionality. The requirements of the SMRs and GAECs have not shown in research to have such a significant impact on climate change effects. 40% of payments for area-based constraints will also be included despite no additional requirements beyond conditionality. The 100% for</p>

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		expenditures under the Eco-schemes: it is not clear from the article if it will only consider measures that have a climate change component or whether it just considers all measures regardless of objectives.
Art 90 - flexibility between pillars: up to 15 % between direct payments and EAFRD payments.	<p>+ shift from direct payments to EAFRD payments increased to 15% from the previous 10%. Can have a positive impact on water protection and adaptation for climate change depending on the overall design of the EAFRD (measures offered) in each MS.</p> <p>+ an additional 15% from direct payments to EAFRD payments if linked to Article 6 (1), d, e, f related to water management and adaptation. Can have a positive impact on water protection and adaptation for climate change depending on the overall design of the EAFRD (measures offered) in each MS.</p> <p>- Under Directive 1307/2013 only certain MS could shift up to 5% of EAFRD payments to direct payment. Now all MS can use this provision and up to 15%. This could result in less ambitious MS spending less money on environmental objectives. This option enables MS to move money away from targeted spending, reducing the options for adaptation and water protection. There is the risk of maladaptation as farming will remain/intensified in areas which will be not suitable to be so in the future</p>	
Article 92 Increased ambition with regard to environmental and climate related objectives		+ Article requires that MS be more ambitious than their 2014-2020 RDP(s) in achieving objectives under Art. 6 (1) d, e, f. MS must also explain how they intend to achieve the greater overall contribution. The explanation must be based on the developed intervention logic, which include the SWOT, measures, target indicators, budget, etc. This requirement has the potential to be very positive with respect to increasing the budget and number of measures to achieving water and adaptation objectives; however, the regulation is not explicit in how they will decide whether a Strategic Plan is being more ambitious, i.e. how they will weight the different elements of the intervention logic or how much more ambitious a MS must be.
Article 94 Procedural requirements		<p>+ MS have to ensure that the competent authorities for the environment and climate are effectively involved in the preparation of the environmental and climate aspects of the plan. MS should involve civil society in the drafting of the plans</p> <p>- Not required by Article 94, to ensure that the involvement of civil society, e.g. NGOs, is sufficiently considered MS should be required to publish the comments received and how they were integrated into the Strategic Plan.</p>
Article 95 Content of the Strategic Plan It requires an analysis of the situation in terms of strengths, weaknesses, opportunities and threats		The SWOT assessments require to consider the union priorities for rural development and therefore water management and adaptation in accordance with Article 6 (1)

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(SWOT). Based on this the measures under the RD program have to be selected.		
Article 96 Assessment of needs	+ It is beneficial that MS must now rank their identified needs as well as a justification of why certain needs are not addressed or only partially addressed in the Strategic Plan. This will increase transparency into which needs the MS emphasizes. The assessment of needs has to consider the national environmental and climate plans emanating from the legislative instruments referred to in Annex XI as they relate to the specific environmental and climate objectives referred to in points (d), (e), and (f) of Article 6(1). This includes the ND, the WFD, the Sustainable use of pesticides directives and the Directive on renewable energy.	
Article 97 Intervention Strategy	+ MS are required to include an overview of the environmental and climate architecture of the Strategic Plan, describing the links between conditionality and env. and climate objectives, and an explanation of how the environment and climate architecture of the CAP Strategic Plan is meant to contribute to already established long-term national targets set out in or deriving from legislative instruments (Annex XI), including the WFD, the Nitrates Directive, the Renewable Energy Directive and the Sustainable Use of Pesticides Directive. This ensures transparency in how water and adaptation issues are being addressed.	
<p>Article 123-124 Performance Bonus A performance bonus may be attributed to Member States in the year 2026 to reward satisfactory performance in relation to the environmental and climate targets provided that the Member State concerned has met the condition set out in Article 124(1). The performance bonus shall be equal to 5% of the amount per Member State for financial year 2027 as set out in Annex IX.</p> <p>Based on the performance review of the year 2026, the performance bonus withheld from a Member State's allocation following the second paragraph of Article 123</p>	+/- This is a new article. Positive development that money will be provisionally withheld from MS until they demonstrate that their Strategic Plans have achieved 90% of their target value by 2025. This is a good incentive to encourage MS to offer measures that benefit water management and climate adaptation. On the other hand, if a MS has a low ambition to begin with – i.e. the target indicators for water management or climate adaptation measure coverage is not high – then this provision will have little impact.	

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<p>shall be attributed to this Member State if the result indicators applied to the specific environmental- and climate-related objectives set out in points (d), (e) and (f) of Article 6(1) in its CAP Strategic Plan have achieved at least 90% of their target value for the year 2025.</p>		