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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

The application of EU competition rules to the agricultural sector

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1. Introduction

The Common Market Organisation Regulation (EU) No 1308/2013 (the CMO)[1] lays down the conditions for the marketing of agricultural products in the internal market. It is an integral part of the common agricultural policy (CAP) and provides for harmonised market and trade technical rules, thus ensuring market orientation for the EU agricultural sector. The Treaty on the Functioning of the European Union (TFEU) grants a specific status to the agricultural sector, so that competition rules applicable to agricultural products are tailored to the sector's specific characteristics (including the fragmentation of the farming sector (compare this with the concentration of actors upstream and downstream in the agri-food supply chain), long production cycles and significant volatility driven by climatic and natural factors), taking into account the objectives of the CAP. The European Commission (the Commission) presents this report to the European Parliament and to the Council pursuant to Article 225, point (d) of the CMO. In accordance with that provision, this report outlines how competition rules, as laid down in the CMO, have been applied[2] to the agricultural sector in all Member States[3].

The report covers the period from July 2017 to July 2025 with regard to exclusions from competition rules in the CMO and the description of antitrust investigations[4].

The report must be considered, taking into account the broader economic and policy context in the period concerned. At that time, Europe's agricultural sector faced a series of significant economic and sanitary crises, such as the COVID-19 pandemic, the Russian war of aggression

[1] 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 and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, OJ L 347 20.12.2013, p. 671.

[2] The application of the exclusions from Article 101(1) of the TFEU is based on self-assessment by producers, who therefore do not need to report it to the Commission. This report is consequently mostly based on formal requests for opinions submitted to the Commission, complaints and *ex officio* investigations of the national competition authorities and reporting of the Member States.

[3] The agricultural sector covers the products listed in Article 1(2) of the CMO and Annex I to the CMO.

[4] Previous report: *Report from the Commission to the European Parliament and the Council on the application of the Union competition rules to the agricultural sector*, COM(2018) 706 final and Commission Staff Working Document accompanying the document Report from the Commission to the European Parliament and the Council The application of the Union competition rules to the agricultural sector, SWD (2018) 450 final.

against Ukraine, the sharp rises in energy and fertiliser costs, extreme weather events and ongoing sanitary threats such as animal diseases, to all of which the Commission responded forcefully[5].

In 2024, the Strategic Dialogue on the Future of EU Agriculture[6] (Strategic Dialogue) recommended that the Commission and Member States promote cooperation initiatives between farmers and other supply chain actors in line with Article 210a CMO to reward farmers for their sustainability efforts and investments. The Strategic Dialogue also called on the Commission and Member States to 'refrain from excessive interferences in the market which limit competition' in addressing the challenges faced by EU farmers.

In December 2024, the Commission proposed measures to strengthen the position of farmers in the food supply chain and restore trust in the chain between its actors, including proposals related to competition rules in agriculture[7].

2. The application of competition rules as laid down in the CMO to the agricultural sector in all Member States

The TFEU confers special status on the agricultural sector. Under Article 42 TFEU, EU competition rules apply to the production of and trade in agricultural products only to the extent determined by the European Parliament and the Council, within the framework of Article 43(2) TFEU and taking into account the five objectives of the CAP provided under Article 39 TFEU. The Court of Justice of the European Union (CJEU) has recognised the precedence of the CAP over the objectives of the TFEU in the field of competition[8]. It has also acknowledged that the

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[5] Special report: Securing food supply during the COVID-19 crisis.

[6] Strategic Dialogue on the Future of EU agriculture.

[7] *Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1308/2013, (EU) 2021/2115 and (EU) 2021/2116 as regards the strengthening of the position of farmers in the food supply chain,* COM(2024) 577 final.

[8] Judgment of 29 October 1980, *Maizena*, 139/79, EU:C:1980:250, paragraph 23, Judgment of 5 October 1994, *Germany* v *Council*, C-280/93, EU:C:1994: 367, paragraph 61; Judgment of 19 September 2013, *Panellionios Szdesmos Viomichanion Metapoiisis Paknou*, C-373/11, EU: C: 201: 567, paragraph 39, most recently recalled in Judgment of 14 November 2017, *APVE and Others*, C-671/15, EU:C:2017:860, paragraph 37.

maintenance of effective competition is one of the objectives of the CAP and of the common organisation of markets[9].

Pursuant to Articles 42 and 43(2) TFEU, the CMO establishes agriculture-specific exclusions from the application of Article 101(1) TFEU. These exclusions, outlined in the 2018 report of the Commission, include general exclusions that may be horizontal (for decisions, agreements or concerted practices of farmers or producers, or farmers' associations and producer organisations (POs) (Articles 152 and 209), or vertical (for agreements, decisions or concerted practices of recognised interbranch organisations (IBOs) (Article 210), or both horizontal (concluded between actual or potential competitors at the same level of the chain (farmers for example)) and vertical (if concluded between actors operating at different levels of the chain (farmers making an agreement with processors for example) (Article 210a). The report also covers exclusions for collective negotiations in the milk sector (Article 149), exclusions in cases of severe market imbalances (Article 222) and exclusions linked to supply management for specific products and sectors (Articles 166a-167-167a).

2.1 Horizontal cooperation (Articles 209, 149 and 152 CMO)

Article 209 CMO

Article 209 makes provision for Article 101(1) TFEU to not apply to agreements, decisions or the concerted practices of farmers, farmers' associations, recognised POs or recognised associations of POs (APOs) which concern the production or sale of agricultural products or the use of joint facilities for storing, treating or processing agricultural products, unless their application would jeopardise the achievement of the CAP objectives in Article 39 TFEU.

Agreements, decisions and concerted practices which fulfil the conditions of Article 209 are not prohibited, and no prior decision authorising them is required. However, the relevant operators may request an opinion from the Commission on the compatibility of those agreements, decisions or concerted practices with the CAP objectives.

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[9]Judgment of 9 September 2003, *Milk Marque and National Farmers' Union,* C-137/00, ECLI:EU:C:2003:429, paragraph 57, Judgment of 14 November 2017, *APVE and Others*, C-671/15, EU:C:2017:860, paragraphs 37 and 48.

The Commission has so far dealt with one request for an opinion under Article 209. This was in 2020, when it issued a positive opinion on the request submitted by the Spanish association of farmers' cooperatives, *Cooperativas agro-alimentarias* (CAA), regarding the compatibility with the CAP objectives of a mechanism to stabilise the Spanish olive oil market[10] through the voluntary storage of olive oil.

The mechanism concerned the following categories of olive oil produced by the cooperative members of the association: extra virgin olive oil, virgin olive oil and lampante olive oil. The sector faces strong annual production fluctuations due to the biological cycles of olive trees and weather conditions. This leads to periods of oversupply or shortage, causing strong price volatility and financial instability for producers.

Cooperative members of the association therefore proposed to store a certain part of the excess volume of olive oil for a limited period. The aim was to achieve a better balance between supply and demand, that could support farmers' income. Participation in the mechanism remained voluntary, and the Commission found that agreements of the CAA and the cooperatives participating in the mechanism were compatible with the achievement of the CAP objectives and did not lead to the exclusion of competition.

Separately, in 2019, the National Competition Authority (NCA) of DK investigated a series of agreements between organic egg producers and egg packing centres aimed at adjusting production to demand determined by packers while maintaining an exclusive supply relationship between them. Ultimately, the agreements aimed to maintain a higher price for such egg producers without setting a specific price level. The NCA considered whether the agreements could fulfil the conditions of Article 209 CMO. Based on the information available, the NCA found no grounds to continue the investigation and closed it without a decision in 2020.

[10] For the Commission Opinion: Opinions on compatibility - European Commission.

Article 149 CMO

Under Article 149 CMO, a recognised PO or a recognised APO may collectively negotiate contracts for the delivery of raw milk on behalf of its farmer members, for part or all of their joint production.

Nine Member States[11] reported deliveries of raw milk in 2024 under contracts collectively negotiated in accordance with this provision. The volume collectively negotiated by recognised POs and recognised APOs amounted to more than 32.3 million tonnes, corresponding to approximately 22% of total milk deliveries in the EU in 2024. In CZ, 78% of the annual milk collection was negotiated collectively, 48% in DE and 49% in FR.

Since 2018, the EU has seen an increase in the percentage of EU milk deliveries collectively negotiated under Article 149 CMO[12], from 18.7% in 2018, to 22.2% in 2024[13].

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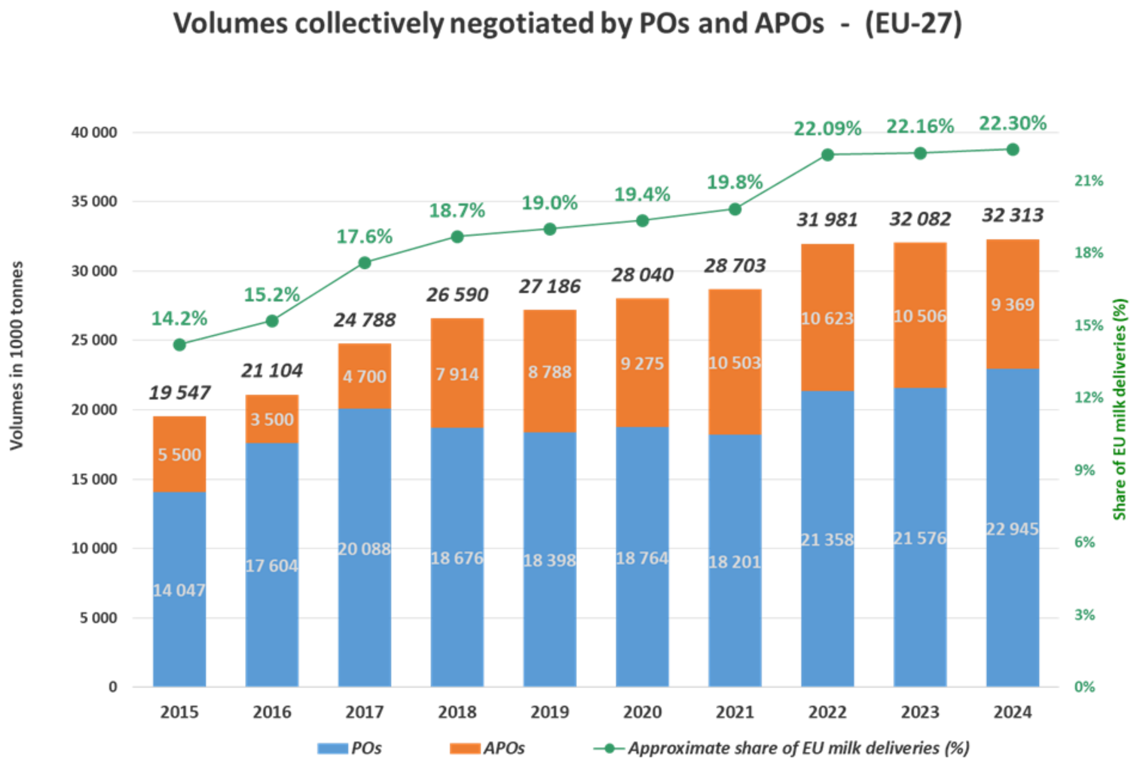
[11] BE, BG, CZ, DE, ES, FR, NL, SK, FI.

[12] The increase in collective negotiations is attributed to the increase in the number of POs/APOs and the success of the mechanism itself.

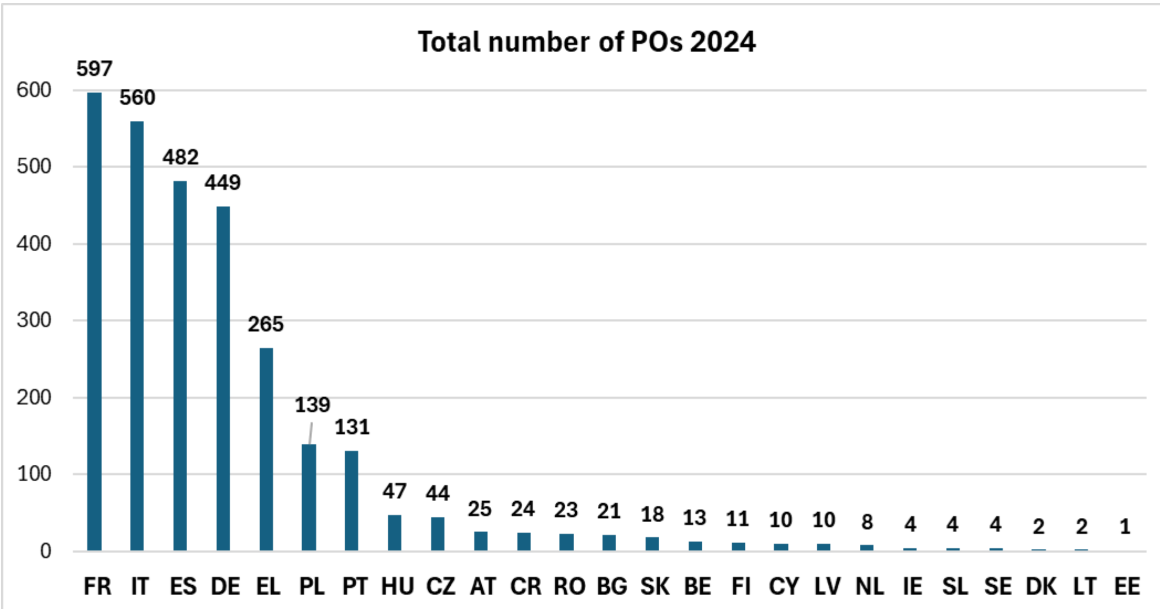
[13] Based on notification of the Member States under Article 3(1) of Commission Implementing Regulation (EU) No 511/2012 of 15 June 2012 on notifications concerning producer and interbranch organisations and contractual negotiations and relations provided for in Council Regulation (EC) No 1234/2007 in the milk and milk products sector, OJ L 156, 16.6.2012, p. 39.



Article 152(1a) CMO

Article 152(1a) makes provision for an explicit exclusion from Article 101(1) TFEU for a recognised PO or a recognised APO that plans production, optimises production costs, places on the market, and negotiates contracts for the supply of, agricultural products on behalf of its members for all or part of their total production. To benefit from this explicit exclusion, organisations must genuinely exercise an economic activity such as joint storage, distribution, joint waste management or joint promotion. There is no prior or *ex post* notification obligation for recognised POs to rely on this provision. It is assumed that most organisations make use of this provision in their activities on the basis of self-assessment.

In 2024 there were 2 894 recognised POs and 90 recognised APOs in the EU[14]. In many sectors, POs are not recognised within the meaning of the CMO, although many fulfil the criteria for recognition; they plan production or place on the market products of their members and negotiate contracts for the supply of agricultural products on behalf of their members, without benefiting from exclusions from competition rules[15].



2.2 Vertical cooperation (Articles 210 and 172b CMO)

Article 210 CMO

Article 210 states that Article 101(1) TFEU does not apply to agreements, decisions or the concerted practices of a recognised interbranch organisation (IBO) which are necessary in order

[14] Based on notifications as submitted by Member States until June 2025 pursuant to Article 5(1) of Commission Delegated Regulation (EU) 2016/232 of 15 December 2015 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to certain aspects of producer cooperation, OJ L 044 19.2.2016, p. 1.

[15] See in that regard the explanatory note from the Commission on the un-recognised POs proposal published by the Council: WK 3897/2025 INIT, pdf, Commission Staff Working Document Strengthening the position of farmers in the food supply chain Accompanying the document Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1308/2013, (EU) 2021/2115 and (EU) 2021/2116 as regards the strengthening of the position of farmers in the food supply chain, COM(2024) 577 final/2.

to achieve the IBO's objectives listed in Article 157(1), point (c) of the CMO[16] and which are not incompatible with EU rules under Article 210(4)[17].

Such agreements, decisions and concerted practices which fulfil the conditions of Article 210 of the CMO are not prohibited, and no prior decision authorising their application is required. The application of the exclusion is based on self-assessment by the organisations in question. However, it is possible to request an opinion from the Commission on the compatibility of agreements, decisions and concerted practices with Article 210[18]. There are currently 134 recognised IBOs in the EU.

The Commission has dealt with four cases of vertical cooperation under Article 210 since 2018[19]; three concerned price indicators and one was related to marketing standards. In all cases, the Commission found that the measures could be declared compatible with EU law, as they did not fulfil the conditions of Article 210(4).

First, in 2019, the *Centre national interprofessionnel de l'économie laitière* (CNIEL) a recognised IBO in the milk and milk products sector, proposed[20] the creation of a market dashboard comprising 26 economic indicators covering aspects such as volume, price, cost and margins of milk and milk products at various stages of the supply chain, and of a market observatory focusing on six indicators for the production costs and cost prices of conventional, organic and mountain milk.

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[16] As well as similar objectives in the olive and tobacco sectors.

[17] These conditions include, among others, the absence of price fixing or market partitioning.

[18] Article 210 of the CMO was amended in December 2021 by Regulation (EU) 2021/2117, which introduced changes to the former procedure, including abolishing the previous system of prior notification to the Commission of agreements, decisions and concerted practices, and making provision for the possibility to request an opinion.

[19] Three other cases were subject to a Commission decision before 2018. In 2017, the Commission found the request submitted by the *Comité national interprofessionnel de la Pomme de Terre* (CNIPT) on price indicators for potatoes to be compatible with Article 210 of the CMO: 1f9b4fda-8007-4b9b-9c06-56c7956be36a_fr; in 2015, the Commission examined a notification submitted by CNIEL on milk payment grids and raised no objections: a1002532-be97-43c3-ab5e-7a5c023b754c_en; and in 2013, the Commission examined an agreement on economic indicators for milk and milk products submitted by CNIEL and found it compatible with EU law: 29301f3c-dd63-48a0-aa42-b60fd5845147_fr.

[20] For the Commission Opinion: *9160b4d9-6168-4c10-b6a4-314d7849a58b_en.

Second, in 2021, the Commission examined a measure proposed by the *Association Interprofessionnelle de la Banane* (AIB), a recognised IBO in the banana sector[21]. The measure aimed to create and disseminate a market indicator at the wholesale stage in metropolitan FR to inform operators of the evolution of prices for bananas sold by wholesalers to retailers, and purchases by mass caterers, restaurants and central purchasing bodies.

Third, in the same year, the Commission looked into CNIEL's request to create and disseminate a market indicator for four cheeses with a Protected Designation of Origin (PDO) (Cantal, Auvergne blue, Ambert and Saint-Nectaire) and their co-products (butter and whey powder) in the Auvergne region of FR[22].

In all three cases, the objective of the market indicators was to improve market transparency by giving operators extensive and comprehensive information. Regularly available indicators would reduce information asymmetry and price volatility by improving market understanding at all stages. Better knowledge of market trends would in turn enable operators along the supply chain to make better informed production and investment decisions.

Last, in 2024 the Commission assessed a request for an opinion on the compatibility of a measure on sizing apples by weight for apples produced and intended to be placed on the market in FR[23].

The agreement in this case set out to achieve several key objectives under Article 157(1), point (c) of the CMO. It increased knowledge and market transparency for members of this IBO by standardising market data using a common unit of measurement, thereby improving predictability for upstream operators and simplifying relationships downstream. It facilitated better coordination in placing products on the market by adopting sizing by weight, which streamlines marketing rules and reduces uncertainties or conflicts among operators. It also provided for size ranges containing 'overlaps', thereby enabling operators to choose the sales

[21] For the Commission opinion: agriculture.ec.europa.eu/document/download/cab818ee-c187-4a14-8635-a9fda51a9cc9_en?filename=c-2021-1437-commission-decision_en.pdf.

[22] For the Commission opinion: f033b677-0932-4fee-8b83-85e7a0caa63c_en.

[23] For the Commission opinion: 3e7b4934-d539-41ca-8228-b0a8721b449a_en.

segment in which they wish to position their products, according to demand requirements. This approach made it possible to eliminate uncertainties and optimise sales. It also supported quality improvement throughout production and marketing by reducing risks such as bruising through sizing by weight, while allowing operators to take into consideration product density and sugar content to ensure that the products placed on the market are ripe. The agreement helped reduce and manage waste by limiting handling during purchasing, thereby decreasing product deterioration and losses while meeting consumer expectations.

Article 172b CMO

Under Article 172b, recognised IBOs operating in the wine sector may provide non-mandatory price guidance indicators for the sale of grapes for the production of PDO wines or wines with a protected geographical indication (PGI), provided that such guidance does not eliminate competition in the case of a substantial proportion of the products in question.

Under the provision, there is no obligation to notify those measures to the Commission, and to the Commission's knowledge, this provision has not been implemented so far.

2.3 Sustainability agreements (Article 210a CMO)

Regulation (EU) 2021/2117[24] introduced a new provision into the CMO (Article 210a) to exclude from the scope of application of Article 101(1) TFEU agreements between producers or between producers and other operators in the agri-food supply chain (at the processing or distribution level for example) aimed at achieving a sustainability standard higher than that mandated by EU or national law. It entered into force in December 2021.

In order to benefit from this exclusion, operators must seek to achieve higher standards which aim to contribute to: (i) environmental protection; (ii) a reduction in the use of pesticides or the danger of antimicrobial resistance; or (iii) animal health and animal welfare. In those cases,

[24] Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021 amending Regulations (EU) No 1308/2013 establishing a common organisation 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 aromatised wine products and (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union, OJ L 435, 6.12.2021, p. 262.

operators are allowed to conclude agreements that would otherwise fall within the scope of Article 101(1) TFEU, provided that any restrictions of competition that they agree on are indispensable for achieving the sustainability standards sought.

In December 2023, the Commission adopted guidelines on the conditions for applying Article 210a[25]. These provide detailed guidance on how to interpret the exclusion as well as numerous examples of potential agreements that would fall within its scope.

Agreements, decisions and concerted practices that fulfil the conditions of Article 210a are not prohibited, and no prior decision to that effect is required. The application of the exclusion is based on self-assessment. However, producers may request an opinion from the Commission on the compatibility of agreements, decisions and concerted practices with Article 210a.

The Commission issued its first opinion under Article 210a in July 2025 on a sustainability agreement in the French wine sector[26]. The agreement aims to maintain the current level of sustainability achieved in the wine sector in Occitanie through the application of organic and high environmental value ((*haute valeur environnementale*) HVE) standards. In the crisis context affecting the French wine market there is a risk that producers of these more sustainable wines switch to more economically attractive conventional wine production or exit the market, through the national grubbing-up programme for example. To limit that risk, the agreement sets a non-mandatory orientation price for the purchase of wine in bulk at a level that covers costs and a margin of up to 20%. The Commission found the agreement compatible with Article 210a.

2.4 Crisis measures (Article 222 CMO)

During periods of severe imbalance in markets, Article 222 allows the Commission to adopt implementing acts to the effect that Article 101(1) TFEU does not apply to specific types of agreements and decisions of farmers, farmers' associations, recognised POs, APOs and IBOs,

[25] Commission guidelines on the exclusion from Article 101 of the Treaty on the Functioning of the European Union for sustainability agreements of agricultural producers pursuant to Article 210a of Regulation (EU) No 1308/2013, OJ C 1446, 8.12.2023.

[26] For the Commission opinion: 86f5a339-ee2d-430f-8e29-5fb56770ba14_en.

provided that such agreements and decisions do not undermine the proper functioning of the internal market and strictly aim to stabilise the sector concerned.

On 22 January 2024, the Commission presented a separate report[27] to the European Parliament and to the Council on the use of crisis measures, including those adopted under Article 222, covering the period from 1 January 2014 to the end of 2023.

No other measures have been adopted under Article 222 since the period covered by that report.

2.5 Adjustment of supply (Articles 166a-167-167a CMO)

Article 166a CMO

Article 166a allows a recognised PO, a recognised IBO or a producer group related to a geographical indication to ask a Member State to set binding supply regulation rules for PDO/PGI products. This Article introduced in 2021 replaces previous provisions for cheese (Article 150) and ham (Article 172) and applies to all agricultural products benefiting from geographical indications.

In the period this report concerns, there have been several cases under the pre-2021 provisions, or under the new ones, notified to the Commission in the sector of milk and milk products, covering PDO or PGI Asiago, Grana Padano and Parmigiano Reggiano in IT and Reblochon, Gruyère, Raclette de Savoie, Tomme de Savoie, Emmental de Savoie, Abondance, Beaufort and Comté in FR[28].

Rules aimed at ensuring the value added of quality products with a PDO or a PGI were put in place for two meat (ham) products, Prosciutto di Parma (from 28 December 2017 to December

[27] Report from the Commission to the European Parliament and the Council on the use of crisis measures adopted pursuant to Articles 219 to 222 of the CMO Regulation, COM(2024) 12 final.

[28] For Asiago: *NOTIFICA PIANO REGOLAZIONE OFFERTA FORMAGGIO ASIAGO DOP*, for Grana Padano: *Notifica piano regolazione offerta formaggio grana padano DOP*, for Parmigiano Reggiano: *Regulation of supply Parmigiano Reggiano*, for Reblochon, Gruyère, Raclette de Savoie, Tomme de Savoie, Emmental de Savoie, Abondance, Beaufort and Comté: e8eac044-1136-4a7d-bdfb-95ecc89eb42a_en.

2020)[29], and Prosciutto di San Daniele (from 1 January 2021 to 31 December 2023)[30]. The rules for both products have been extended to 2026[31].

The main objective of the measures is to adapt the supply of the PDO/PGI products concerned to demand. By continuously monitoring production and market developments and adjusting the production volumes, the goal is to prevent major imbalances between supply and demand resulting in fluctuations and serious repercussions for the entire supply chain. The measures also seek to promote value added production and to ensure that producers are fairly remunerated. At the same time, it is crucial for ensuring that the product is available on the market.

Article 167 CMO

Pursuant to Article 167, producer Member States may, under certain conditions, lay down marketing rules to regulate supply, in particular by decisions of recognised IBOs, to improve and stabilise the operation of the common wine market.

In 2020, ES notified a measure[32] setting out a general rule limiting the maximum harvest yield in plots dedicated to wine production outside the scope of a PDO or a PGI[33] (18 000 kg/ha for red wine and 20 000 kg/ha for white wine) and defining the possible uses of the grapes from bigger plots. Those rules were introduced in 2020 as additional provisions into the Spanish Decree from 2014 that implements Article 167[34] in general terms.

[29] Masaf - *Decreto 28 dicembre 2017*.

[30] Masaf - *Decreto approvazione del piano di regolazione dell'offerta del prosciutto San Daniele DOP* - 2021-2023

[31] https://www.prosciuttodiparma.com/wp-content/uploads/2024/01/Piano-di-Regolazione-dellOfferta-2024-2026-29-gennaio.pdf, https://www.regione.fvg.it/rafvg/export/sites/default/RAFVG/economia-imprese/agricoltura-foreste/FOGLIA32/allegati/Piano_Regolazione_Offerta_2024-2026_REV_01.pdf

[32] *Real Decreto 557/2020, de 9 de junio*.

[33] Maximum yields of wines protected by a denomination of origin or a geographical indication are set in their product specifications.

[34] *Real Decreto 774/2014, de 12 de septiembre*

FR notified the adoption of several marketing rules over the period concerned to constitute reserve stocks with a share of the base wines produced in Champagne[35], Languedoc[36] (2020) and Cognac[37] (2019).

Article 167a CMO

Regulation (EU) 2020/2220[38] introduced Article 167a into the CMO so producer Member States could lay down marketing rules aimed at regulating supply in order to improve and stabilise the functioning of the common market in olive oils. Member States have not notified the Commission of any decisions taken under this Article.

3. Investigations by the Commission and national competition authorities (NCAs) in the agricultural sector

In the period from July 2017 to July 2025, Competition authorities (CAs) in the EU[39] concluded about 110 investigations in the agricultural sector, and 20 investigations are still ongoing, making a total of 130 investigations. The highest number of investigations was carried out by the CAs in EL (27 cases), followed by the Commission (12 cases) and FR (12 cases), DK (11 cases) and AT (10 cases).

3.1 Main product categories/sector investigated

The CAs' investigations cover a wide range of agricultural products, but the following product categories were investigated most frequently: milk and dairy products (25%), fruit and

[35] *Arrêté du 18/10/2017*, *Arrêté du 03/10/18*, *Arrêté du 9/12/19*, *Arrêté du 13/03/20*

[36] *Arrêté du 11/02/20*

[37] *Arrêté du 25/11/2019*

[38] Regulation (EU) 2020/2220 of the European Parliament and of the Council of 23 December 2020 laying down certain transitional provisions for support from the European Agricultural Fund for Rural Development (EAFRD) and from the European Agricultural Guarantee Fund (EAGF) in the years 2021 and 2022 and amending Regulations (EU) No 1305/2013, (EU) No 1306/2013 and (EU) No 1307/2013 as regards resources and application in the years 2021 and 2022 and Regulation (EU) No 1308/2013 as regards resources and the distribution of such support in respect of the years 2021 and 2022, OJ L 437, 28.12.2020, p. 1.

[39] 'Competition authorities' covers both the Commission and NCAs.

vegetables (19%), meat (13%) and eggs (6%). A number of investigations also took place in the categories of sugar (5%), cereals (5%) and seeds (4%).

3.2 Entities subject to investigation

The entities subject to investigations conducted by CAs are manufacturers[40] (36%), associations of agricultural producers (14%), wholesalers (12%), POs (9%), individual agricultural producers (9%), retailers (8%) and various other entities, including trade associations, IBOs and associations of exporters (13%).

Manufacturers are the entities most frequently represented in the investigations. For instance, the French NCA investigated, and issued a decision on, coordination among major food manufacturers on both the price paid in the upstream market for purchasing lean boneless pork cuts (primarily *jambon supérieur maigre* or JSM, used for cooked hams) from slaughterhouses and the selling price in the downstream market for selling raw/dry and cooked cold meat products (such as sausages, dry salami, rosettes, pâtés, rillettes, cooked hams) to large-scale retailers under private labels or economy ranges.

3.3 Farmers are the largest source of investigations

CAs opened the majority of the investigations on their own initiative (through *ex-officio* procedures) after becoming aware of potential anti-competitive practices through market information. Additionally, they opened investigations following complaints (from suppliers, competitors or customers).

The complainants were varied and essentially included: agricultural producers (24%), manufacturers (21%), retailers (16%), associations of agricultural producers (13%), POs (11%), individuals (11%) and wholesalers (4%).

The data shows that agricultural producers alone or in a partnership (POs and APOs) are the most important source of complaints, representing about half of the complaints, and ultimately the

[40] For this report, manufacturers refers to entities producing food by processing one or more ingredients (whether these ingredients are agricultural products or not). This includes processors (meaning entities processing one or more agricultural products into other products).

most significant source of antitrust investigations (including market information that they provide to CAs). However, agricultural producers sometimes make their complaints public when they submit them to CAs, and thereby undermine the chances that the CAs can collect evidence of possible infringements.

3.4 Outcomes of investigations

The 110 antitrust investigations in the agricultural sector that were closed during the period in question had the following three different types of outcomes.

a) Infringement decisions with fines (about a fourth of the cases concluded), i.e. the CAs required an entity to stop the infringement and to pay a pecuniary penalty;
b) Commitment decisions (six cases), i.e. the CAs did not reach a conclusion on whether there was an infringement and adopted a decision making commitments offered by the entity under investigation legally binding, thereby removing any potential competition concerns.
c) Closures without an infringement (approximately half of the cases concluded), i.e. closure of the proceedings by the CAs during a preliminary phase of the investigation due to lack of evidence. In some cases, this might also have been because disproportionate efforts would have been necessary to meet the requisite burden of proof or because of the need to set priorities.

While the majority of investigations ends without a formal decision, they can nevertheless be important in several ways. First, some investigations clarify that complaints or concerns in the food supply chain are unfounded. For instance, following press reports during the critical period of the outbreak of the COVID-19 pandemic, the Greek NCA investigated concerns that anti-competitive practices might have led to shortages of and/or increases in the price of certain agricultural and food products. The NCA found that there was no significant increase in the median prices of white milk and flour semolina in supermarket chains during the COVID-19 pandemic. The concerns may have been raised because of some specific prices that were not representative for the situation in the whole national situation.

In some other cases, intervention of the CAs prevented an infringement from taking place, as was the case for the protectionist agreements described in Section 3.5.5.

3.5 Types of infringements investigated and found

The main types of infringements detected by the CAs can be classified as follows: horizontal agreements (on prices and volume restrictions) (32%), agreements between a seller and a buyer to fix resale prices of the buyer [41] (16%), agreements on customer allocation (13%), bid rigging (coordination by several sellers of their bids) (12%), agreements on market sharing (8%), the exchange of commercially sensitive information (6%), abuses of a dominant position, involving strategies to foreclose competitors, such as predatory prices, exclusionary rebates, excessive and unfair prices (6%). In a number of these cases, the CAs found that there were several infringements at the same time. The following paragraphs give examples of these types of infringements.

3.5.1 Agreements on prices and/or quantities

Agreements on prices were the most frequent. There were agreements on prices and quantities between buyers, to the detriment of farmers. For instance, in July 2019, the Spanish NCA fined ten of the largest Spanish and international dairy companies and associations operating in ES for a milk cartel that occurred between 2000 and 2013[42]. The operators exchanged information on purchase prices of raw cow's milk, purchase volumes and milk surpluses. Such behaviour deprived dairy farmers of the right to freely negotiate the price of their milk, further weakening their bargaining position in the market. Similarly, the Polish NCA investigated five purchasers[43] of soft fruits (among others currants, cherries and plums) who fixed the purchase prices of fruits that they were buying from local fruit farmers[44].

There were also agreements on prices between manufacturers. For instance, the Commission fined price-fixing and market-sharing practices from 2000 to 2013 between major European producers

[41] Practice also known as 'resale price maintenance'.

[42] For further details see the press release *plantilla nota de prensa*.

[43] Damex, Kam-Pol, Fructis, Kalbrok and Silver-Trans.

[44] The Polish NCA adopted the decision fining these soft fruit purchasers in March 2026; https://uokik.gov.pl/zmowa-przy-skupie-owocow-prezes-uokik-naklada-kary

of canned vegetables[45]. The canned vegetables included beans, green peas, pea-and-carrot mixes, and vegetable macedoine (excluding corn and mushrooms), sold in tins or jars primarily under private labels to retailers and the food service industry across the European Economic Area. The manufacturers were one corporate company and two agricultural cooperatives.

Other cases concerned the setting of price indices. For instance, in 2018, the French NCA fined[46] the association of wine growers for the Côtes du Rhône region (*Syndicat général des vignerons réunis des Côtes du Rhône* – SGVRCR) EUR 20 000 for anti-competitive practices in the marketing of Côtes du Rhône AOC[47] bulk wines. The trade association, a professional organisation representing winemakers, engaged in price fixing by establishing and disseminating minimum price instructions and subsequent price recommendations to its members from 2010 to 2017, covering various wine categories by colour and quality range. These actions, promoted through publications, newsletters and meetings, encouraged uniform pricing in sales negotiations, distorting competition without regard for individual production costs.

Last, in 2021, the Romanian NCA found anti-competitive horizontal agreements among egg producers (five producers and an association of producers)[48] which aimed at controlling and/or limiting the supply of eggs in the Romanian market, including elements that would make the national market less attractive for egg imports. The ultimate purpose of controlling and/or limiting domestic supply was to prevent decreases in egg prices.

3.5.2 Agreements to fix resale prices

Agreements to fix resale prices typically involved a manufacturer and one or more retailer(s) or wholesaler(s). For instance, in 2018, in the sector for the production and sale of margarine and

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[45] IP_19_5911_EN.pdf

[46] Decision No 18-D-06 of 23 May 2018 issued in the wine sector.

[47] *Appellation d'Origine Contrôlée*

[48] Decizia-oua-site.pdf

butter, the Greek NCA fined Minerva S.A. because it agreed with several affiliated wholesalers/distributors the prices at which the latter would resell Minerva's products[49].

3.5.3 Allocation of markets

In 2023, the Dutch NCA found that four suppliers of raw carrots had allocated among themselves sales to industrial customers (canned and frozen food manufacturers) in NL, BE and DE. The suppliers also agreed among themselves some cross-supplies and compensations.

3.5.4 Bid rigging

Bid rigging typically involved a coordination between several sellers on the bids they submit in a tender organised by a buyer. For instance, in a 2022 decision, the Croatian NCA found that four wholesalers had coordinated their offers covering 14 groups of food products in a tender organised by a social care institution (*Dobri dom*) providing soup kitchen services in Zagreb. Through this practice the wholesalers designated winning bidders for the different lots under procurement, ultimately inflating prices for essential food products for citizens in a difficult economic situation[50]. In 2018 also, the Greek NCA found that a cooperative (Friesland Campina Hellas) and a company (Mandrekas) had coordinated their bids in public procurement tenders for dairy products by way of abstaining from simultaneously participating in public tenders[51]. The Swedish NCA found the bid coordination also for dairy products in a case involving ARLA Foods AB[52] in 2020.

3.5.5 Agreements on geographical market allocation, protectionist agreements

The most common form of geographical market allocation was the so-called 'protectionist agreements'. These agreements were concluded between retailers only or between operators at

[49] ioei_tm_i_i_o_i_i_i_.pdf

[50] CCA detects first bid rigging cartel in public procurement - AZTN. https://www.aztn.hr/ea/wp-content/uploads//2022/06/UPI-034-0317-01021-.pdf.

[51] Δελτίο Τύπου - Διευθέτηση υπόθεσης

[52] The Swedish Competition Authority takes legal action against Arla Foods for unlawful cooperation | Swedish Competition Authority; Arla Foods is not granted leniency in a case on unlawful cooperation | Swedish Competition Authority.

different stages of the supply chain, to give preference to products from their own Member States. The Commission, together with NCAs, initiated several investigations into various ‘charters’ and similar promotion initiatives in BE, BG, FR, LV. These initiatives were at a very early stage and the intervention of the CAs led to their amendment to exclude discrimination against products from other Member States and thus the fragmentation of the internal market.

In addition, there were some geographical sales area allocation cases: in 2023, on a request from the Austrian NCA, the Austrian Cartel Court issued a decision which found that two sugar producers, *Südzucker AG* and *Nordzucker AG*, had breached Article 101 TFEU through concerted practices in the industrial sugar market, specifically through an agreement between them to maintain separate geographic sale areas (respectively in AT and DE), thereby restricting competition and affecting cross-border trade[53].

3.5.6 Abuse of a dominant position

Investigations notably concerned the relationships between farms and cooperatives, and the freedom of farmers to select the cooperative they wish to be a member of. For instance, as a result of an investigation[54] by the German NCA, in 2018, Germany’s largest dairy cooperative, *Deutsche Milchkontor* (DMK) changed its supply conditions and reduced its period of notice of termination for the delivery of milk from 24 to 12 months, thereby providing more options for farmers to select their cooperative and choose their supply conditions.

Other cases of abuses of a dominant position concerned the imposition of excessive prices. In 2022, the Cypriot NCA found that the Pancyprian Organisation of Cattle Farmers had abused its dominant position by imposing excessive pricing on the next stage of the market (dairy industries).

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[53] Cartel Court imposes a fine of EUR 4.2 million on Südzucker AG at AFCA’s request; the decision is final: BWB Bundeswettbewerbsbehörde

[54] Bundeskartellamt – Homepage – Proceeding against DMK dairy discontinued

4. Consultations and monitoring activities by NCAs in the agricultural sector

NCAs also provided advice on the application of competition rules at the request of operators in the agricultural sector. In the period concerned, NCAs received 53 such requests concerning the agricultural sector.

A significant part of the work of the NCAs also consists of monitoring activities. In the period concerned, NCAs conducted **22** sectoral enquiries into the application of competition rules to the agricultural sector. Such work typically included sector-specific investigations, the adoption of reports and advocacy work.

In particular, there were several consultations on sustainability agreements by the NCAs. Some examples follow.

- The German NCA answered seven consultation requests on sustainability agreements, including an ongoing consultation in the meat sector through the InitiativeTierwohl[55] (where the parties, due to concerns raised by the German NCA, decided to abolish from 2024 onwards a compulsory premium payable by buyers to participating farmers, also known as an animal welfare surcharge), and four closed consultations on the cacao, plants, banana and dairy sectors.

- The French NCA answered two requests for informal guidance: i) one requested by two trade associations (*Coopération Agricole Nutrition Animale* and *Syndicat National de l'Industrie de la Nutrition Animale*) concerning a draft methodological guide aiming at calculating the environmental footprint of compound foods, and more specifically their greenhouse gas footprint[56]; and ii) another requested by the association *Pour une Agriculture du Vivant* concerning a project whose aim is to help farmers on French

[55] Initiative Tierwohl is a project based on an agreement between the agricultural, meat production and food retail sectors, which aims to reward livestock owners for improving the conditions in which animals are kept.

[56] Informal guidance 25-DD-01 of 29 January 2025 on the creation of a system for the collective financing of the additional costs and risks associated with the agro-ecological transition.

territory by financing and ensuring their transition towards more eco-friendly practices[57] (which would entail the application of Article 210a CMO).

- The Dutch NCA answered two consultations: i) one requested by the *Stitchting Milieukeur*, the organisation which develops and manages criteria of Dutch quality marks for arable crops, fruits and vegetables, milk, eggs, ornamentals (flowers, plants, trees, flower bulbs, etc.) and prepared and processed food products, namely for an agreement concerning unprocessed potatoes, vegetables and fruit; and ii) another requested by *Tuinbranche Nederland*, an association of undertakings operating in the flowers sector.

5. Final remarks

Sound competition in the agricultural sector is of crucial importance to ensure that the Treaty objectives of the CAP are achieved. A number of exclusions from competition rules in the agricultural sector have been adopted, primarily aimed at strengthening and rebalancing the position of farmers in the agri-food supply chain. It is essential that farmers proactively make use of the mechanisms available and take advantage of the benefits they present. There is still significant untapped potential in these frameworks, requiring greater attention. In particular, competition exclusions offer a framework for the organisation of the production and supply of products by farms through POs and APOs. Such organisations not only benefit from the necessary exclusion from competition rules, they also receive financial support under the CAP. In addition, they offer structural tools enabling farmers to participate on a more equal footing in commercial relations with their suppliers and buyers and to manage risks, investments and rise to challenges. At the same time, enforcement by CAs has made it possible to stop and prevent practices that are detrimental to farmers on the selling or the buying side. Exclusions from competition rules continue to evolve, while keeping the market orientation of the CAP. The 2024 proposal of the Commission[58] identified further opportunities to strengthen the position of farmers in the chain. At a time of continued concentration both upstream (inputs needed) and

[57] Informal guidance 25-DD-01 of 29 January 2025 on the creation of a system for the collective financing of the additional costs and risks associated with the agro-ecological transition.

[58] Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1308/2013, (EU) 2021/2115 and (EU) 2021/2116 as regards the strengthening of the position of farmers in the food supply chain, 2024/0319 (COD).

downstream (the food sector) in the supply chain, a fair and effectively enforced competition framework remains essential for farmers to receive correct remuneration for their work, while ensuring supply at reasonable prices for consumers, in line with CAP objectives under the TFEU.