

To:

Mr Frans Timmermans, Executive Vice-President for the European Green Deal, European Commission

Mr Janusz Wojciechowski, Commissioner for Agriculture, European Commission

Cc :

Ms Ilze Juhansone, Secretary-General, European Commission

Open letter to the European Commission requesting improved transparency in the assessment and approval of the revised Rural Development Programmes and future CAP Strategic Plans

Brussels, 4 October 2021

Dear Executive Vice-President of the European Commission,
Dear Commissioner,

We are writing to bring to your attention the lack of transparency in the process of assessing and approving the revised Common Agricultural Policy's (CAP) Rural Development Programmes (RDPs). In particular, we strongly regret that the Commission refused to publish the observation letters on the draft revised RDPs while the decision-making processes were still ongoing in order to allow for effective public scrutiny of and participation in these crucial decisions. We now call on you to greatly improve the transparency of the future process of approving CAP Strategic Plans.

The CAP, absorbing around one third of the EU's budget, is key to the success of the European Green Deal. After the outbreak of the COVID-19 pandemic, the European Agricultural Fund for Rural Development (EAFRD) was reinforced by an additional €7.5 billion, supposed to "*pav[e] the way for a resilient, sustainable and digital economic recovery in line with the objectives of the Union's environmental and climate commitments and with the new ambitions set out in the European Green Deal*"¹. In the context of the climate and biodiversity emergencies, the details of how the CAP's recovery budget will be utilised is a matter of significant public interest.

Member States were required to revise their RDPs if they wished to make use of the additional budget that was allocated to the EAFRD as part of Next Generation EU. The European Commission's approval is necessary for these revised programmes to become effective. We, BirdLife and ClientEarth, regret the fact that the assessment and approval process of the revised RDPs has not been transparent. Indeed, none of the European Commission's observations letters commenting on those drafts were made available to the public during the respective decision-making procedures. This has particular implications for national civil society organisations, considering that not all Member States have created space for effective involvement of stakeholders in the process of revising the RDPs. The lack of transparency from the side of the European Commission indirectly supports the malpractice of some national authorities.

Civil society organisations have long warned against the ineffectiveness of the CAP in delivering on environmental protection, biodiversity restoration and climate mitigation and adaptation. We are

¹ Recital 21, Regulation (EU) 2020/2220.

concerned that the legislation governing the distribution of the EAFRD's recovery budget to Member States [does not present sufficient safeguards](#) for the fund to contribute to achieving the European Green Deal. Therefore, public scrutiny is essential to verify that taxpayers' money is effectively allocated for a green recovery.

The fact that none of the European Commission's observation letters on the draft revised RDPs were publicly available has prompted us to file nine access to documents requests with the European Commission, followed by confirmatory applications. Only this week did we receive the documents requested for five countries, weeks and in some cases, months after the expiration of the respective deadlines, in breach of Regulation (EC) No 1049/2001. We strongly regret that the Commission granted such access only after it approved the amendments to the related RDPs, *i.e.* at a time when citizens are no longer able to participate in the decision-making procedures.

We recall that Article 1(2) of the Treaty on European Union (TEU) describes our legal order as an "*ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen*" and Article 10(3) TEU guarantees the right of every citizen to participation in EU decision-making processes. Article 15(1) of the Treaty on the Functioning of the European Union (TFEU), among other provisions, further provides that the institutions are to conduct their work as openly as possible. The Court of Justice of the European Union has also emphasised that transparency in EU decision-making processes contributes "*to increasing those citizens' confidence in those institutions*", and recognised that the disclosure of information in good time is crucial to allow citizens to make their views known in an ongoing decision-making procedure². Furthermore, the lack of public access to the observation letters makes it possible for national governments to "blame Brussels" for negative or unpopular outcomes. Public access would therefore contribute to strengthening confidence in the European Union and help avoid Euroscepticism. This is precisely why the co-legislators decided to establish a principle of direct access to documents in Article 12 of Regulation (EC) No 1049/2001.

On 10 May 2021, Commissioner Wojciechowski committed to make public the Commission's objections to the draft CAP Strategic Plans³. While we greatly welcome this commitment, we call on the Commission to completely break with the culture of opacity related to the approval of RDPs and their revisions. Transparency after the relevant decisions have been taken is not enough! The draft Strategic Plans and the Commission's observations must be made available to the public as early in the decision-making process as possible. Citizens have a right to follow the assessment and approval process of the future Strategic Plans, especially as the observations letters must be adequately taken into account by Member States. Scrutiny of Member States' observance should not only be the prerogative of the European Commission, but also that of citizens. Furthermore, the public should be able to assess the extent to which the observations letters align with wider policy and legal frameworks, such as the European Green Deal and CAP reform.

We therefore call on you, Executive Vice-President Timmermans and Commissioner Wojciechowski, to ensure greater transparency on the assessment and approval of the revised RDPs, in accordance with the provisions of the EU Treaties outlined above, by publishing the remaining Commission's observations, all revised RDPs in their draft and approved versions and, at the very least, providing access upon request in due time, *i.e.* when the decision-making procedure is ongoing. We also take this opportunity to call on the Commission to make good on the commitment given on 10 May to publishing information on the CAP Strategic Plans, and to do so at a time when the public can still make its voice heard.

² C-57/16 P ClientEarth v Commission, paras 75 and 84.

³ European Network for Rural Development, "Getting the CAP Strategic Plans done: the voice of regions and stakeholders", [Webinar](#) of 10 May 2021.

Yours sincerely,

ClientEarth[®]



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