



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Deputy Director-General, in charge of Directorates B, C and D

Brussels
AGRI.B.1/AK/VM D(2024) 625104

Dear Mr Navickas,

Thank you for your letter of 10 January 2024. You explain that the protection of permanent grasslands, as requested by the EU legislation, does not reflect local specificities and poses implementation problems in Lithuania. You thus ask some questions in respect of ‘crop rotation’ within the definition of permanent grassland (PG).

Please find below the replies to your questions.

Your question:

“If a grassland in the same field is declared as such for five consecutive years but it is included in crop rotation, should it be considered as PG, or does it not qualify for the status of PG?”

Reply:

There are two possible ways to understand your question depending on when the rotation i.e. conversion to other uses than grass, such as to cereals, took place. If **within** the period of five years the grass coverage is altered to other crop than grass, i.e. crop rotation takes place, then based on Article 4(3), point (c) of Regulation (EU) 2021/2115, it should not be considered PG. However, if the question refers to a situation where crop rotation took place **after** the above-mentioned period (i.e. only in the 6th year or later), by definition the area is classified as PG after 5 years and then classified as arable land after the conversion. This is without prejudice to the possibility of applying the additional ‘conversion’ criteria listed in Article 4(3), point (c) (ploughing, tilling, or reseeding with different types of grass or other herbaceous forage), if Member States so decide. For example, if a Member State decides to choose ‘ploughing’ as a ‘conversion’ criterion (i.e. action, which has an effect equivalent to crop rotation), then the renewal of grass coverage by ploughing it within the period of 5 years, would result in the land not being converted into PG after that time but remaining classified as arable land.

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Your question:

“Given the provision in Article 4(3)(c) of Regulation (EU) 2021/2115, it is evident that the participation of the grassland in crop rotation needs to be assessed. However, is it necessary to define the concept of crop rotation in national legislation to evaluate area of PG during this CAP period?”

Reply:

The CAP rules do not require to lay down a definition of crop rotation. To recall, the EU jurisprudence ⁽¹⁾ has interpreted that the crop rotation within the definition of permanent grassland means changing grass into crops other than grass. This Court interpretation, even though done based on the old rules, remains valid also under the new rules, because the essential elements of the definition (that it is about the land, which is under the grass coverage for 5 or more consecutive years and is outside of crop rotation) did not change.

Your question:

“If the definition of crop rotation in national legislation is not necessary, how should the inclusion of grasslands in crop rotation be treated and implemented as mentioned in Article 4(3)(c) of Regulation (EU) 2021/2115?”

Reply:

It is for Member States to set the definition of permanent grassland in their CAP Strategic Plans within the framework definition as stipulated in Article 4(3), point (c) of Regulation (EU) 2021/2115 and to implement it. The inclusion of grasslands in crop rotation, i.e. changing grass into crops other than grass, should be treated as an action, which has an effect on land classification. In terms of implementation this would mean that when the crop rotation is applied on temporary grassland – this land maintains its status as arable land (the calculation of years of consecutive grass coverage on the field in question goes back to 0). Whereas when the crop rotation is applied on existing permanent grassland (i.e. area classified as permanent grassland), the field in question loses its classification as permanent grassland and is turned into arable land. It is up to Member States to decide on the management of the above in applications and controls.

Your question:

“Regulation (EU) 2021/2115 Article 4(3)(c) mentions that ‘permanent grassland and permanent pasture’ (together referred to as ‘permanent grassland’) shall be land that is used to grow grasses or other herbaceous forage naturally (self-seeded) or through cultivation (sown) and that has not been included in the crop rotation of the holding **for five years or more** and, where Member States so decide...”. In light of this, we understand that non-participation in crop rotation can be longer than 5 years.”

⁽¹⁾ the case-law C-47/13 Martin Grund, point 33

Reply:

Indeed, non-participation in crop rotation can be longer than 5 years for the grassland to then have a classification of permanent grassland. An area, which stayed under grass coverage for e.g. 6, 10 or 20 consecutive years, meets the definition of permanent grassland, provided it meets other relevant requirements, such as non-renewal of grassland by ploughing, should a Member State decide to use it. However, Member States cannot decide that the minimal period for the grassland to be outside of crop rotation, before it turns into permanent grassland, is longer than 5 years. I.e. Article 4(3), point (c) of Regulation (EU) 2021/2115 is clear in this respect – it is enough for the grassland not to be included in the crop rotation (and also not e.g. ploughed/renewed, should Member States decide so) for 5 years – it then turns into permanent grassland.

The purpose of the present letter is to clarify and explain the provisions of Regulation (EU) 2021/2015. It is provided for information purposes only and is not a legally binding document. It was prepared by Commission services and does not commit the European Commission.

It is in the event of a dispute involving Union law, under the Treaty on the Functioning of the European Union, ultimately for the Court of Justice of the European Union to provide a definitive interpretation of the applicable Union law.

The Commission envisages including the position presented in this letter on CircaBC for information to all Member States, unless explicitly asked not to do so by you within ten working days from the receipt of this letter.

Yours sincerely,



Mihail DUMITRU