



ECVC's Proposals to implement Social Conditionality in the CAP

Brussels, November 2021

1. Background

1.1 ECVC has been raising the proposal to include Social Conditionality in the CAP for many years, which has been reflected in our documents and communications, both in wage labor issues and in our global vision on the CAP.

1.2 During the current CAP reform process for 2023-2027, ECVC has made several proposals and advocated for its inclusion at European and territorial level, supporting the proposal approved by the EP and the letters and actions carried out, together with other allies.

1.3 The EU Trilogue, in its final agreement on the new CAP of June 23, 2021 has included for the first time Social Conditionality on a voluntary basis as of 2023 and on a mandatory basis as of 2025. The content of the final agreement in its latest version, dated 23/07/2021¹, is contained in Appendix I of this document.

"(23a) In order to contribute to the development of socially sustainable agriculture by improving the beneficiaries of the CAP support, social and employment standards, a new mechanism integrating social concerns should be introduced."

"Because of the complexity of setting up systems at national level which respect the autonomy and specificity of national systems, Member States may choose to implement social conditionality at a later date but in any event no later than 1/1/2025."

1.4 Once the inclusion of Social Conditionality in the CAP has been approved and its implementation, first voluntary and then mandatory for the States through the National Strategic Plans, detailed proposals must be put forward both on the content and scope of the rights to be protected, and on the application and control mechanisms needed to ensure the full development of this social protection mechanism for rural workers and the effective improvement of their labor, social, employment and housing situation in all EU countries.

1.5 The proposed content, scope, criteria and mechanisms for implementation and monitoring should form a basic framework at community level, with sufficient strength and clarity to ensure its real application by the States, and at the same time serve as indicators for its adaptation to the particularities of the different territories without undermining the essential content and objectives of Social Conditionality. The proposals are also useful, with the corresponding adaptations, to the public agricultural policies of other European states that do not belong to the EU.

1.6 ECVC's proposals are based on our specific peasant vision and approaches within the framework of a change in the agrarian model, as well as our radical and direct defense of the interests of peasants, workers and migrants. For ECVC, alliance and coordination between peasant producers and wage workers is fundamental in order to ensure decent working conditions and decent incomes for all people working in rural areas, in line with the 2018 UN Declaration on the Rights of Peasants and Other People Working in Rural Areas.

1.7 From ECVC and in coordination with other producers' organizations, workers' unions, human rights associations and other civil society organizations, we intend to put forward clear and effective proposals, within the framework of a general approach to a Common Agricultural Policy that supports peasant agriculture, agroecology, food sovereignty, as well as the protection of land and the

¹ <https://data.consilium.europa.eu/doc/document/ST-11004-2021-ADD-1-REV-2/en/pdf>



environment, access to natural resources and respect for the rights and dignity of rural producers and workers.

1.8 We are aware of the difficulties and obstacles that we will encounter in achieving an adequate and effective application of social conditionality in rural wage labor, confronting the interests of agribusiness, industrial agriculture and large production, marketing and employment intermediation companies, which make huge profits from labor exploitation and the segregation of seasonal agricultural workers and migrants. The situation created by the **COVID 19 pandemic crises** is an opportunity to move forward, based on the visibility produced by the need of peasants, rural and migrant workers (many of them undocumented) to ensure food security in Europe.

2. Context and Basis Elements

2.1 From ECVC we highlight the following essential starting points for the application of Social Conditionality in the CAP:

- a) The struggle for a peasant agrarian model as opposed to the agro-industrial model, source of exploitation, integrating the concepts of public and participatory governance of food systems, food security and sovereignty and the right to food, resources and biodiversity.
- b) The global demand for labor and social rights and decent income for the rural population in general, both for autonomous and salaried peasants, in the sense of articles 16, 13 and 14 of UNDROP, and article 39.1.b of the TFEU. This implies not only compliance with current regulations but also their effective application and improvement.
- c) The insistence on the defense of all rural workers regardless of their origin, level of stability or administrative situation -based on the principles of equal rights, free circulation and regularization of all people- and on their participation and real representation from the base through unions or other forms of organization, without bureaucratic obstacles from unions, associations or NGOs.

2.2 The functioning of social conditionality in the CAP should be included in a broader **approach to governance and control by the EU** of the situations of exploitation, segregation and discrimination suffered by a large part of the rural wage-earning population, which implies, among other measures:

- a) The revision and improvement of the European Directives on the displacement of workers in the EU, the situation of seasonal workers from outside the EU, displaced work and the control of intermediary companies, as well as those referring to the rights and freedoms of immigrants and refugees, ensuring regularization mechanisms. Also the application of the Directive on transparent and predictable working conditions with application as of August 2022.
- b) Application of state and European regulations, ILO Conventions (in particular Conventions 141, 184, 154 and others, on freedom of association, right to collective bargaining, protection of migrants, etc.), European Social Charter, CFSP, International Convention on the Protection of All Migrant Workers and Members of Their Families of December 18, 1990, Convention Relating to the Status of Refugees of July 28, 1951, UNDROP.
- c) New proposals in the European framework such as: European Observatory on the situation of rural workers, coordination of Labor Inspection throughout Europe, Minimum Wage. European Collective Agreement and Social Security, equalization of wages and working conditions between countries and between sectors, etc.
- d) The coherence of agricultural public policies, such as the CAP, with the major policy lines expressed by the EU in the Green Pact and the F2F strategy, within the framework of the development of a sustainable and social agriculture. Approach and inclusion of Social Conditionality in these strategic documents and in their regulatory developments, as well as in the provisions on



climate, food labeling and others.

2.3 The basic contents and mechanisms of Social Conditionality established at EU level must be detailed, concrete and precise, to be applied and developed by National Governments, their Ministries of Agriculture and, where appropriate, the Regions, respecting the objectives and criteria established and guaranteeing their effective application in all farms benefiting from the CAP, in all States. The labor, social and civil rights of rural workers must be guaranteed in the same way in all EU countries, without creating discrimination between territories or situations of unfair competition between producers.

2.4 The question of regulations in the EU in general:

The EU is caught between its basic neoliberal ideology, that wants only a minimum of regulations because it is known that "the market fixes everything spontaneously in an optimal way" - and the increasing failure of this ideology and its economic model in deep crisis since 2008 - among other things by the failure of the WTO/ICO plans, by the pandemic situation and other factors such as the loss of biodiversity, global warming, water, soil and air pollutions etc... On many issues, it is clear that *laissez-faire* policy does not work and regulations are needed.

The EU does not internalize important social and ecological costs due to its agricultural and nutrition system, but citizens have to pay these costs through taxes. The demand for decent conditions for agricultural workers is framed in a global context with socio-political and political-environmental elements. Also, it goes together with the defense of a peasant and not industrial agriculture (large farms, capital-intensive, mechanized, with mass production subject to the laws of the capitalist market, concentration, rationalization, constant obligation to lower costs). The organization of the market for agricultural products must allow small and medium farms to live from their work and at the same time cultivate the land and raise animals with methods that respect the requirements of agro-ecological production.

The EU is interested in establishing a pool of cheap labor in Eastern countries, employing workers from Romania, Bulgaria and others in Western countries through dubious intermediaries and with special contracts that allow not applying national laws, as it is done in Germany in the meat industry and in agriculture. In the event of a pandemic, labor laws are cancelled (especially in Germany) for the sole benefit of the agricultural companies.

ECVC concludes that in general it is important for the EU to have cheap food because it avoids spending money on social policy. Lidl and Aldi are key for helping poor families! In the framework of this policy, cheap labor (often peasants who cannot make a living with their small farms), with precarious working conditions and mostly of migrant origin, easily transferable from one country to another is a key and growing element.

3. Content of the required Social Conditionality:

3.1 The Trilogue agreement, in its latest version dated 23/07/2021, includes the following content:

"Such a mechanism should link full receipt of CAP direct payments and payments under Articles 65, 66 and 67 to the compliance by beneficiaries with basic standards concerning working and employment conditions for farm workers and occupational safety and health; in particular certain standards under Directive 2019/1152/EU on transparent and predictable working conditions,



Directive 89/391/EEC on measures to encourage improvements in health and safety of workers and Directive 2009/104/EC on minimum safety and health requirements for use of work equipment by workers. By 2025, the Commission will assess the feasibility of including Regulation 492/2011, Article 7(1) on the free movement of workers and will, if appropriate, propose legislation to that effect.”

3.2 It is imperative to demand the incorporation without exception of respect for current legislation on labor, social, civil and political rights of agricultural workers in the conditionality for receiving any direct payment or benefit from the CAP, as established by the EU Committee of the Regions, the European Parliament and the last CAP agreement approved by the trilogue.

3.3 The EU must compel states to positively and upwardly harmonize the rights of farmers and workers, and to guarantee decent working conditions, a decent standard of living and a sufficient and adequate income, at least on a par with other economic sectors and territories.

3.4 The content of social conditionality requirements must necessarily include respect for the regulations in force at territorial, national, European and international levels, especially all applicable ILO conventions, and apply to the areas regulating employment and working conditions, social (housing and health), economic (wages and other benefits), trade union (actions, organization and representation) and social security (social security, benefits, etc.). Also civil rights such as freedom of movement, the right to document regularization and equal treatment, among others.

3.5 In rural areas, and according to the UNDROP, effective respect for workers' rights and corporate compliance with legal obligations must be specifically guaranteed through effective, adequate and permanent public control mechanisms, as well as the full exercise of trade union, organization, representation, information and strike rights of all wage earners. It is also essential to improve the application of the limited, insufficient or difficult to control legal requirements that we find in many regulations and administrative and judicial practices in rural areas, which facilitate non-compliance or their deviation.

3.6. The subjective scope of Social Conditionality should include all workers in food handling and primary processing companies, closely related to or integrated in the same farms, as well as those of the POs.

3.7 Intermediation systems in the contracting of rural workers should be limited, controlled and, as far as possible, eliminated, which combine contracting at origin, temporary employment agencies, subcontracting and false cooperatives or false self-employed, which divide wage earners and weaken their power of autonomy and defense of their rights. Recruitment in countries of origin agreed upon by the states must provide the same conditions of stability and rights as the labor and social regime of the rest of the workers and effective guarantees against exploitation.

3.8 Minimum contents that must be guaranteed in social conditionality:

a) Quality and stability in employment, with fixed contracts if the duration and type of work performed so determines, and in any case with stability clauses and call-up guarantees, which avoid the current system of permanent circulation and replacement of workers from season to season, which companies carry out in order to avoid the consolidation of rights and bargaining power of agricultural day laborers.

b) Systems of contracting and calling that guarantee the bargaining power of agricultural workers, without the interference of intermediary companies or systems of contracting at origin that make migrant workers vulnerable and facilitate their labor exploitation, discrimination and even sexual abuse.

c) Guarantee of a minimum wage and its effective contribution to social security.

d) Decent and sufficient wages, including payment for vacations, breaks and transportation.

e) Access to adequate housing for seasonal workers guaranteed by the government and employers, in which the autonomy and freedom of movement of the worker is guaranteed.

f) Effective job security, access to health, protection and complements in cases of illness and



accidents.

g) Continuous, free, adequate and quality training for agricultural workers.

h) Real and effective representation of rural workers by their assemblies, delegates, committees and unions, without interference from employers. The systems of election of delegates must be transparent, participatory and with full guarantees, as well as being adapted to the situation of instability, dispersion and work in workplaces with few employees, combining systems of representation by company with territorial systems.

i) Effective protection of workers' representatives (members of works councils, personnel delegates and union sections), including of candidates for these representative positions before and after union elections.

j) Dialogue bodies between management, authorities, workers and their representatives at local, regional and national level.

4. Enforcement and Control Mechanisms:

4.1 Mechanisms established in the Trilogue agreement, in its latest version dated 23/07/2021:

" For those farmers who do not comply with those requirements, Member States should ensure that proportionate, effective and dissuasive penalties are applied in accordance with [the HZR Regulation]. Due to the principle of judicial independence it will not be possible to impose upon the judicial systems specific requirements on how decisions and convictions are made other than what is provided for under the legislation the decision/conviction is based upon. When establishing the social conditionality mechanism, in order to respect the right of Member States to define the fundamental principles of their social and labour systems, due account should be taken of the diverse national frameworks. Therefore, the Member State's choice of enforcement methods, collective bargaining and the role of social partners, including, where applicable, in the implementation of directives in the social and employment domain, should be considered. National labour market models and the autonomy of the social partners shall be respected. This regulation shall not impose any obligations on the social partners or on Member States regarding enforcement or controls in areas which according to the national labour market models are the responsibility of the social partners. "

Article 11a Social conditionality Principle and scope.

"1. By 1/1/2025, Member States shall include in their CAP strategic plans that farmers and other beneficiaries receiving direct payments under Chapter II of this Title or annual payments under Articles 65, 66 and 67 of this Regulation shall be subject to an administrative penalty if they do not comply with the requirements related to the applicable working and employment conditions or employer's obligations arising from the legal acts referred to in Annex XX.

2. When including a system of administrative penalties in their CAP Strategic Plans as referred in paragraph 1, on the basis of their institutional provisions, Member States shall consult relevant national social partners, representing management and labour in the agriculture sector and shall fully respect their autonomy, as well as their right to negotiate and conclude collective agreements. Where in line with national legal and collective bargaining frameworks, social partners are responsible for the implementation or enforcement of the acts referred to in Annex XX, their rights and obligations



shall not be affected by the system of administrative penalties to be included in the CAP Strategic Plans.³ The rules on an effective and proportionate system of administrative sanctions to be included in the CAP Strategic Plan shall respect the relevant requirements laid down in Chapter XX of Title IV of Regulation (EU).

...

4. The legal acts referred to in Annex XX concerning the provisions to be subject to the system of administrative penalties as referred in paragraph 1 shall apply in the version that is applicable, and as implemented by the Member States.”

We think that behind a language based on fair principles and objectives, hides a lack of real will of its operation, by leaving its effective application in the hands of the member states and according to their national laws and agreements, usually not very guaranteeing. Nor is it reasonable to leave the obligatory nature of social conditionality until 2025, since it should be applied from now on, albeit with a gradual system. Due to the principle of judicial independence and autonomy, no specific requirements are established and a wide margin of action is left to the national states and the social partners, which may hinder a homogeneous basic application throughout the EU.

Our Proposals

4.2 It is up to the EU to establish concrete elements on social conditionality, as is already common in the environmental field, with the system of enhanced conditionality. The EU must take direct responsibility for the implementation of social conditionality by the member states and not leave the entire responsibility for its control and implementation to the member states. While the application of applicable labor and social regulations is the responsibility of the Member States, the power to sanction and cancel subsidies is a European competence.

Farms claiming **more than 70,000 euros** in premiums, having a **total balance sheet exceeding 2 000 000 euros**^{Erreur ! Signet non défini.} or having **more than 10 employees**² - directly or indirectly - will be required to have a **prior public certification** stating the traceability of employment contracts and compliance with all tax and labor obligations in force. As an example, in Italy, there is the DURC³, a single document of regularity of social security contributions and tax obligations.

4.3 In addition to prior certification for large companies or large recipients, all agricultural companies will be subject to a **system of sanctions** that provides for the withdrawal of subsidies granted or paid in the event of serious non-compliance, as well as gradual sanctions for other types of misconduct.

The control system will be based on a periodic monitoring and a European verification process, in addition to mechanisms for receiving complaints from unions, associations or affected workers, as

² as referred by the European commission to define a micro-entreprise :

<https://www.google.com/search?q=total+balance+sheet+meaning&oq=total+balance+sheet+&aqs=chrome.1.69i57j0i19l3j0i19i22i30j69i60l2j69i61.5217j0j7&sourceid=chrome&ie=UTF-8>

³ It is a document of contributory regularity required: (a) for the disbursement of subsidies, contributions, grants, subsidies, financial aid and economic advantages, **of any kind**, including those referred to in article 1, paragraph 553, of Law no. 266 of 23 December 2005

b) within the framework of tendering procedures for public works, services and supplies and in private works in the construction sector

c) for the use of certain statutory and contributory benefits in the field of labor and social legislation.



well as communication of legal non-compliance by the administrative or judicial bodies of each state. An effective action on the part of national labor inspectorates and their coordination and mutual support within the EU will be sought.

4.4 **Framework agreements** between workers' unions and farmers' organizations that strengthen, support, follow up and monitor the implementation of social conditionality, without replacing the public controls that are established, will be promoted.

4.5 A **public observatory and permanent social dialogue systems** shall be created, within the framework of the EU, on the conditions of workers in the food chain, to ensure transparency, information and participation in the application of these mechanisms. These bodies will carry out reports, analyses, periodic statistics and comparative tables on the situation of peasants and workers, according to the amount of income, type of company and generation of employment.

4.6 **Processes shall be established for the control of effective business** compliance, with defined conditions and deadlines for the application of measures. These controls cannot be left in the hands of the employers, through self-declarations or audits that are not independent or manipulated by the employers' organizations themselves, but it is essential to **guarantee independent and transparent administrative follow-up**, with union and social participation.

These control procedures should not be punctual, but **systematic and with follow-up**, so that companies do not fall back into the same mistakes after having corrected them. And they must include, in addition to documentary verification, secure and representative interviews of employees by qualified auditors, as well as the exclusion of any confidentiality clause that would prevent the dissemination of their results.

4.8 It is also necessary to apply **positive regulations**, providing benefits or special aid to small farms that certify compliance with labor, social and employment conditions, in accordance with legal regulations and good practices that respect their effective compliance and the rights of peasants, recognizing their economic, social and territorial function.

4.9 The practices of **exchange of services and mutual support** among peasants are outside the framework of salaried work and therefore of social conditionality. These practices should be supported by rural development policy, ensuring that they are not used to conceal relations of dependency subject to legality control.

4.10 **Private Certification systems** cannot be the basis or source of the controls established for compliance with CAP social conditionality. In any case, **social control and certification must always be public or be under public supervision, based on** public procedures that ensure neutrality and transparency. Systems operated by private companies or associations of private companies or control bodies clearly linked to non-neutral private interests may not participate in this type of control under any circumstances.

4.11 The generation of **agricultural employment** is a positive element that should be considered, but this employment must be of high quality. A large part of this employment, both self-employed and employed, is generated on fruit and vegetable farms and it is unacceptable that they should be excluded from direct aid from the Pac. The **quality of employment** generated on farms, including that of the farmer and his family, should be a **positive criterion** that benefits the obtaining and amount of aid, but always giving priority to small production, sustainable and agroecological practices, stable employment, processing and local distribution of products and territorial socio-economic benefit. Given that small-scale agroecological farms tend to have more work units per



hectare, they should receive more support.

4.12 Bearing in mind that **Producer Organizations (POs)** are the first beneficiaries of the CAP⁴ support, a specific control mechanism should be established for Common Market Organizations (CMOs) to verify compliance with social conditionality. Subsequently, a system of sanctions should also be established in the CMOs in the event of non-compliance by some producers.

4.13 Social conditionality should also be applied to the distribution of funds under the **second pillar of the CAP**. It is necessary to include investments for the welfare of agricultural workers. Rural employment should be promoted, both in local production and distribution, as well as in environmental conservation, sustainable services and infrastructure, social inclusion and local development in rural areas.

4.14 **The application of resources not distributed** due to social conditionality requirements shall be allocated to other objectives that reinforce social conditionality throughout the sector, within the framework of the second pillar of the CAP.

4.15 National governments have a responsibility to ensure that measures to support social conditionality are well harmonized across regions and based on a smooth system of sanctions. Member States should develop clear guidelines for the implementation of social conditionality in all their territories.

4.16 The national authorities responsible for labor controls should also be able to check compliance with social conditionality and, in the event of non-compliance, inform the national agencies responsible for EU agricultural subsidies. If a farm does not comply with social conditionality, all its subsidies (direct subsidies, environmental measures, etc.) should be returned.

5. Abbreviations used

- ECVC : Coordination Européenne Via Campesina
- CAP : Common Agricultural Policy
- EP : European Parliament
- EFFAT : European Federation of Food, Agriculture and Tourism Trade Unions
- EU : European Union
- UNDROP : United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas
- TFUE : Treaty on the Functioning of the European Union
- ILO : International Labour Organization
- CFSP : Common Foreign and Security Policy
- WTO : World Trade Organization
- OP : Producer organization
- HZR : Horizontal Regulation
- DURC : Single Document of Regular Contribution
- CMO : Common Market Organization

⁴ “The Largest 50 beneficiaries in each EU Member State of CAP and Cohesion Funds 51 PE 679.107 - Top 50 direct beneficiaries CAP 2019”